

01-00000-69  
IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

69  
5-15-02  
SC

ALLFIRST BANK \*

Plaintiff, \*

v. \*

CASE NO.: 1:01-CV-786

JOHN M. ORTENZIO \*

Defendant. \*

Judge - Remand

FILED  
HARRISBURG, PA  
MAY 14 2002  
MARY E. LANDHEA, CLERK

\*\*\*\*\*  
**PLAINTIFF'S STATEMENT PURSUANT TO LOCAL RULE 56.1**

Plaintiff, Allfirst Bank, by its undersigned attorneys, propounds pursuant to Local Rule 56.1 the following statement of facts which it contends are either undisputed or indisputable.

1. In March of 1999, Allfirst extended to CCI a \$4 million line of credit. Exhibit A (Commitment Letter); Exhibit B (Promissory Note).
2. The sole purpose of the line of credit, as expressly stated in the March 24, 1999 commitment letter, was to finance CCI's accounts receivable and work in progress. Exhibit A (Commitment Letter).
3. The line of credit was unsecured and did not carry Ortenzio's guaranty. Exhibit B (Promissory Note).
4. The line of credit had a cash management feature. Exhibit B (Promissory Note). Payments from CCI's customers would be wire transferred by the customers to or deposited by CCI in an Allfirst account. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz at 175-177). If there was a balance outstanding on the line, the deposits would be applied against the line. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz

at 175-177). If there was no balance outstanding on the line, the positive balance in the account would be swept overnight into an interest bearing investment and the interest credited to CCI. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz at 175-177). When checks were presented, any positive balance in the account would be used to pay the checks. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz at 175-177). To the extent any positive balance was insufficient or if there was no positive balance, the line of credit would be accessed and the checks paid by a draw on the line. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz at 175-177). CCI would access the line of credit by writing checks on the account, but the line of credit would only be accessed if and to the extent CCI did not have a positive balance in the account. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23); Exhibit O (Schwartz at 175-177).

5. Borrowings under the line of credit were evidenced by a promissory note in the face amount of the line. Exhibit B (Promissory Note).

6. The unpaid principal balance due under this note would fluctuate with paydowns and advances on the line. Exhibit N (Ortenzio at 61-67); Exhibit M (Phillips at 16-23).

7. During 1999, CCI's financial situation deteriorated. Contrast Exhibit F (1998 Financial Statement) with Exhibit G (Internal 1999 Financial Statement); Exhibit M (Phillips at 24).

8. In November, 1999, Ortenzio requested a temporary loan from Allfirst to tide CCI over an anticipated short term cash flow shortfall. Exhibit N (Ortenzio at 73).

9. A meeting was held between Ortenzio and Sheri Phillips, CCI's chief financial officer, and representatives of Allfirst on November 4, 1999. Exhibit C (Schwartz Memorandum).

10. As a result of the meeting, Allfirst agreed to extend a temporary \$1.2 million loan to

CCI, which would be due on March 31, 2000. Exhibit D (Commitment Letter).

11. Allfirst was unwilling to extend the \$1.2 million loan to CCI unless Ortenzio guaranteed the loan. Exhibit N (Ortenzio at 94).

12. To obtain the loan for CCI, Ortenzio gave his guaranty. Exhibit E (Suretyship).

13. This guaranty obligated Ortenzio on the temporary loan and authorized Allfirst to collect the loan directly from Ortenzio to the same extent as if the loan had been made to him. Exhibit E (Suretyship).

14. Repayment of the \$1.2 million loan was expected to come from the increased cash flow which would result when collections were made on two large, problematic jobs. Exhibit M (Phillips at 34-35); Exhibit N (Ortenzio at 88).

15. Ortenzio had sufficient liquid assets to pay the \$1.2 million loan personally. Exhibit N (Ortenzio at 95-96); Exhibit I (Personal Financial Statement).

16. CCI's financial condition worsened after the \$1.2 million loan was made. Exhibit M (Phillips at 24); Exhibit F (1998 Financial Statement); Exhibit G (Internal 1999 Financial Statement). CCI, which made a profit the preceding year, lost over \$6 million in 1999. Exhibit M (Phillips at 24); Exhibit F (1998 Financial Statement); Exhibit G (Internal 1999 Financial Statement).

17. By February 14, 2000, CCI projected that it would have a cash flow shortfall of several million dollars over the next several months. Exhibit H (Cash Flow Projection).

18. Ortenzio was aware of CCI's financial condition and discussed the Company's financial condition with Sheri Phillips. Exhibit M (Phillips at 41-44).

19. Ortenzio refused to invest any more of his money in the Company. Exhibit M (Phillips at 45; 51-52).

20. Prior to February 18, 2000, Ortenzio discussed with Sheri Phillips the possibility of a bankruptcy proceeding for CCI. Exhibit M (Phillips at 48).

21. Ortenzio was aware of his guaranty of the \$1.2 million loan and obligation to pay this sum to Allfirst. Exhibit N (Ortenzio at 94); Exhibit M (Phillips at 37).

22. In early February, Ortenzio decided to have CCI repay the \$1.2 million loan which he had guaranteed with a borrowing under the \$4 million line of credit which he had not guaranteed. Exhibit N (Ortenzio at 105; 112-122); Exhibit O (Schwartz at 181-182).

23. Sheri Phillips, the chief financial officer, opposed Ortenzio's plan to repay the \$1.2 million loan with a borrowing under the line of credit. Exhibit M (Phillips at 36-38).

24. Sheri Phillips refused to write the check to effect the repayment. Exhibit M (Phillips at 37).

25. Ortenzio had the check written without Sheri Phillips' involvement. Exhibit M (Phillips at 38); Exhibit N (Ortenzio at 106-107).

26. On Friday, February 11, 2000, Ortenzio personally went to Allfirst to deliver the check that would repay the \$1.2 million loan. Exhibit N (Ortenzio at 105; 108).

27. Craig Schwartz, the Allfirst loan officer, was not present when Ortenzio arrived. Exhibit N (Ortenzio at 110).

28. Ortenzio gave the check to Schwartz's secretary and asked that it be applied to the \$1.2 million loan. Exhibit N (Ortenzio at 111).

29. After personally delivering the check, Ortenzio telephoned Craig Schwartz to request an immediate return of his guaranty. Exhibit O (Schwartz at 190-191).

30. In the telephone call, Ortenzio did not disclose to Schwartz that the payment had been

made by a draw on the unguaranteed line of credit. Exhibit N (Ortenzio at 110-122; 182-187); Exhibit O (Schwartz at 181).

31. At Ortenzio's request, Schwartz put a rush request into Allfirst's document control section and notified Ortenzio on Tuesday, February 15, 2000, that he would return the guaranty to Ortenzio as soon as possible. Exhibit O (Schwartz at 190-191).

32. The guaranty was returned to Ortenzio. Exhibit O (Schwartz at 149).

33. The \$1.2 million note was never returned to CCI. Exhibit O (Schwartz at 149).

34. When Allfirst returned the guaranty, it had not been told by Ortenzio that the unguaranteed line of credit had been used to repay the guaranteed \$1.2 million loan. Exhibit O (Schwartz at 181; 196-98).

35. When Allfirst returned the guaranty, it had not been told by Ortenzio of CCI's current financial condition. Exhibit N (Ortenzio at 126-127).

36. After he received his guaranty, Ortenzio requested a meeting with Allfirst. Exhibit N (Ortenzio at 123).

37. Ortenzio's purpose in requesting the meeting was to apprise Allfirst of CCI's financial situation. Exhibit N (Ortenzio at 146-148).

38. The meeting was held on Friday, February 18, 2001 at Allfirst's office. Exhibit N (Ortenzio at 124).

39. Ortenzio was accompanied by Robert Chernicoff, an attorney he had retained just prior to the meeting to represent CCI. Exhibit N (Ortenzio at 127-128).

40. Chernicoff was a bankruptcy specialist. Exhibit N (Ortenzio at 132-133).

41. At the time of the meeting, Ortenzio knew that CCI had lost over \$6 million dollars

in 1999 and was insolvent by almost a million dollars. Exhibit N (Ortenzio at 144; 151); Exhibit G (Internal 1999 Financial Statement).

42. Prior to Ortenzio requesting the meeting, Allfirst had not been told by Ortenzio that CCI had lost over \$6 million dollars in 1999 and was insolvent by almost a million dollars. Exhibit N (Ortenzio at 152; 158 -161).

43. In the meeting, Ortenzio presented a cash flow projection that showed that CCI would have a cash shortage over the next 5 months of \$5,873,456. Exhibit N (Ortenzio at 155); Exhibit H (Cash Flow Projection).

44. Ortenzio did not reveal during the meeting that the \$4 million line of credit had been used to repay the \$1.2 million loan he had personally guaranteed. Exhibit N (Ortenzio at 182-183).

45. The cash flow projection Ortenzio presented at the meeting did not reflect the use of the \$4 million line of credit to repay the \$1.2 million loan. Exhibit H (Cash Flow Projection); Exhibit M (Phillips at 59-60).

46. During the meeting, Ortenzio stated that he would be meeting with CCI's bonding company during the next week and planned to solicit financial support from the bonding company. Exhibit P (Elias at 10-12).

47. During the meeting, Ortenzio agreed to report back to Allfirst on the results of the meeting with the bonding company. Exhibit P (Elias at 10-11).

48. During the meeting, Ortenzio agreed that CCI would not write any further checks that would draw on the line of credit until he had reported back to Allfirst. Exhibit P (Elias 10-12).

49. Ortenzio, on the Monday following the Friday meeting, personally supervised the writing of checks that were draws on the line. Exhibit M (Phillips at 38); Exhibit N (Ortenzio at

106-107).

50. Allfirst dishonored the checks that Ortenzio had CCI issue. Exhibit P (Elias 19-20).

51. Allfirst closed down the line of credit on Wednesday, February 23, 2000 and prevented further draws on the line of credit. Exhibit P (Elias at 19-20).

52. On February 24, 2000, Allfirst formally declared CCI in default and demanded payment. Exhibit J (Default Letter).

53. As of February 24, 2000, Ortenzio had not disclosed to Allfirst that on February 11, 2001 the unguaranteed line had been drawn upon to repay the \$1.2 million loan he had guaranteed. Exhibit P (Elias at 25-26).

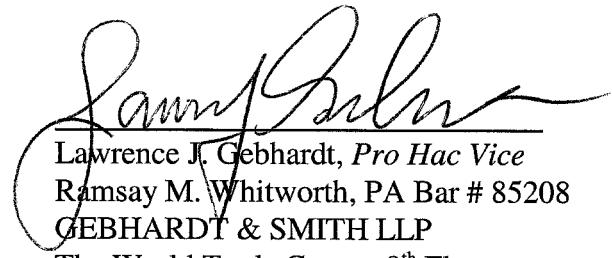
54. On February 22, 24, and 25, 2000, customers of CCI wired payment of their outstanding accounts to Allfirst. Exhibit K (Bankruptcy Adversary Complaint); Exhibit L (Accumulated Transaction List). These payments totaled \$2,317,291.28 and were credited against the outstanding balance under the line of credit, which now reflected the draw to prepay the \$1.2 million line. Exhibit K (Bankruptcy Adversary Complaint); Exhibit L (Accumulate Transaction List).

55. On May 19, 2000, CCI filed a petition under Chapter 11 of the *United States Bankruptcy Code*. Exhibit K (Bankruptcy Adversary Complaint).

56. On January 10, 2001, CCI, as debtor in possession, instituted an action to recover the customer payments as a preference under *Bankruptcy Code* § 547 in an adversary proceeding entitled CCI Construction Co., Inc. v. Allfirst Bank (Adversary No. 1-01-00011A). Exhibit K (Bankruptcy Adversary Complaint).

57. Allfirst is defending against the debtor in possession's claim and the matter is set for

trial before the United States Bankruptcy Court for the Middle District of Pennsylvania on May 30, 2000.

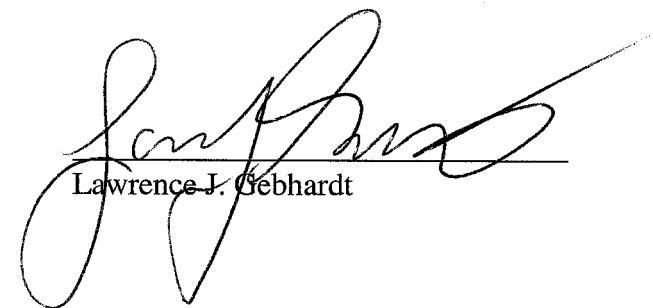


Lawrence J. Gebhardt, *Pro Hac Vice*  
Ramsay M. Whitworth, PA Bar # 85208  
GEBHARDT & SMITH LLP  
The World Trade Center, 9<sup>th</sup> Floor  
401 E. Pratt Street  
Baltimore, MD 21202  
(410) 385-5100

*Attorneys for Allfirst Bank*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13 day of May, 2002, a copy of the *Plaintiff's Statement Pursuant to Local Rule 56.1* was sent via Federal Express to Edward I. Swichar, Esquire and Robert A. Burke, Esquire, BLANK ROME COMISKY & MCCUALEY LLP, One Logan Square, Philadelphia, PA 19103, *Attorneys for Defendant.*



Lawrence J. Gebhardt

DEFENDANT'S  
EXHIBIT  
*Shurtliff*



## FIRST NATIONAL BANK OF MARYLAND

A Division of FMB Bank

Regional Corporate Group, Mail Code 133-02-01  
3045 Market Street, Camp Hill, PA 17011-4530  
Telephone: 717 612-5026 Facsimile: 717 612-5027

March 23, 1999

Ms. Sheri Phillips  
Chief Financial Officer  
CCI Construction Co., Inc.  
P.O. Box 1129  
Mechanicsburg, PA 17055

Dear Ms. Phillips:

I am pleased to advise you that The First National Bank of Maryland, a Division of FMB Bank (hereafter "Bank") has increased and reaffirmed an unsecured line of credit (hereafter "Loan") to CCI Construction Co., Inc. (hereafter "Borrower") as follows:

Principal Amount of Loan: \$4,000,000.00

Interest Rate: Bank's Base Rate as in effect from time to time,  
minus  $\frac{1}{2}\%$

Repayment Schedule: Interest monthly, principal on demand

Use of Proceeds: Finance work in process and accounts receivable

Collateral: Unsecured

Borrowings under the Loan will bear interest at an annual rate equal to the Bank's Base Rate as in effect from time to time, minus one-half percent (-1/2%). This interest rate will change when and as the Bank's Base Rate changes. Interest shall be calculated on the basis of the actual number of days in the current calendar year divided by 360. Interest will be payable monthly upon submission of the Bank's statement therefor.

Borrowings under the Loan will be payable on demand. If no demand is made, the Loan will expire and all borrowings will be due and payable, together with interest thereon, on April 30, 2000.

Ms. Sheri Phillips  
CCI Construction Co., Inc.  
March 23, 1999  
Page Two

Terms and Conditions:

1. Annual CPA – audited financial statements of CCI Construction Co., Inc.
2. Quarterly work in process reports for CCI Construction Co., Inc.
3. Quarterly Company prepared financial statements of CCI Construction Co., Inc.
4. Monthly borrowers certification with monthly accounts receivable aging and listing.
5. Primary business deposits of CCI Construction Co., Inc. to be maintained at The First National Bank of Maryland, a Division of FMB Bank.
6. Negative pledge of assets other than purchase money.
7. The Company shall maintain a minimum tangible net worth of \$4,500,000.00 measured at year end.
8. Advances not to exceed 80% of qualified accounts receivable less than 90 days past dues, excluding retainages.

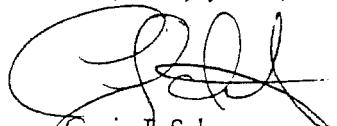
Availability of the Loan is contingent upon the Borrower and the Bank entering into mutually acceptable loan documentation setting forth terms and conditions stated herein and such other terms and conditions, covenants, warranties and representations as may be required by the Bank and be mutually acceptable to the Borrower and the Bank. All terms and conditions contained herein shall survive the execution of such loan documentation.

This commitment is contingent upon the right of the Bank at any time hereafter and from time to time to review the commitment, to adjust terms and conditions, or to discontinue the commitment should the Bank in a reasonable exercise of its sole business discretion deem it necessary to do so.

Ms. Sheri Phillips  
CCI Construction Co., Inc.  
March 23, 1999  
Page Three

Please acknowledge your concurrence with these terms and conditions by signing, dating and returning the enclosed copy of this letter to the Bank on or before March 31, 1999.

Very truly yours,



Craig J. Schwartz  
Vice President

CJS/jkp

Enclosure

ACKNOWLEDGED AND ACCEPTED THIS 24<sup>th</sup> DAY OF March , 1999.

ATTEST:

BY:   
Title: ASSISTANT SECRETARY

CCI CONSTRUCTION CO., INC.

BY:   
Title: CFO

## EXHIBIT

Ortenzio-3  
213B1 TB\* a division of  
FMB BankFILM/CASH SOLUTIONS PROMISSORY NOTE  
(PENNSYLVANIA)

INSTRUCTIONS to Loan Officer: Use for (a) loans to corporations, regardless of amount, and (b) loans to non-corporate borrowers when the only purpose of any such loan is business and the principal amount of such loan exceeds \$50,000.

\$ 4,000,000.00

Mechanicsburg, PA  
(City) (State)

March 24, 1999

FOR VALUE RECEIVED, the undersigned ("Borrower") promises to pay on demand to the order of THE FIRST NATIONAL BANK OF MARYLAND, \_\_\_\_\_ ("Bank"), at any of Bank's offices, or at such other place as the holder of this Promissory Note may from time to time designate, the principal sum of FOUR MILLION and 00 /100 Dollars (\$ 4,000,000.00), or such other amount as may be advanced from time to time to Borrower, together with interest thereon at the rate or rates hereafter specified and any and all other sums which may be owing to Bank by Borrower pursuant to this Promissory Note. The following terms, as well as the applicable terms on Exhibit A, attached hereto and incorporated herein by reference, shall apply to this Promissory Note.

1. **DEFINITIONS.** The following terms have the following definitions:
  - A. "Account" means the commercial checking account maintained by Borrower with Bank and designated as Account No. 28864514, together with any replacement account therefor.
  - B. "Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in the Commonwealth of Pennsylvania are authorized to close.
  - C. "Incremental Advance Amount" means the amount indicated on Exhibit A as the Incremental Advance Amount. Each Loan must be an integral multiple of such amount.
  - D. "Initial Excess Balance" means, for any Business Day, the amount by which the collected balance in the Account at the end of such Business Day after posting all credits to the Account (subject to funds availability), but prior to posting any debits to the Account, exceeds the Target Balance.
  - E. "Line Availability" means, for any Business Day, an amount equal to the difference obtained by subtracting the aggregate principal balance outstanding under all Loans from the Maximum Line Amount.
  - F. "Loan" means an advance of monies from Bank to Borrower pursuant to the terms of this Promissory Note; and the term "Loans" means more than one Loan.
  - G. "Maximum Advance Amount" means an amount equal to the highest integral multiple of the Incremental Advance Amount which does not exceed the Line Availability.
  - H. "Maximum Line Amount" means the amount indicated on Exhibit A as the Maximum Line Amount, which amount is the maximum aggregate principal balance of the Loans which may be outstanding at any one time.
  - I. "Minimum Loan Advance" means the amount indicated on Exhibit A as the Minimum Loan Advance, which amount is the minimum principal amount of each Loan.
  - J. "Presented Items" means, for any Business Day, the aggregate amount of debits which have been presented for payment against the Account.
  - K. "Prime Rate" means a fluctuating annual rate of interest equal to the greater of: (i) that rate announced from time to time by Bank as its "prime rate;" or (ii) the rate obtained by adding one percent (1%) to the average rate, rounded to the nearest one-tenth of one percent, for three month maturity dealer placed commercial paper for the week most recently reported in the Federal Reserve Statistical Release No. H.15(519) entitled "Selected Interest Rates" or any succeeding publication.
  - L. "Target Balance" means the amount indicated on Exhibit A as the Target Balance, which amount is the minimum collected balance that must be maintained in the Account.

2. **PROCEDURES FOR LOANS.** All Loans shall be made in the form of a transfer of funds into the Account in accordance with the procedures set forth in this paragraph. Borrower hereby irrevocably authorizes Bank to make Loans in accordance with the procedures set forth herein. At the end of each Business Day, Bank shall calculate the Initial Excess Balance and the aggregate amount of the Presented Items. In the event the Initial Excess Balance is less than the aggregate amount of the Presented Items, Bank shall make a Loan by transferring funds into the Account in an amount equal to the amount, which when added to the Initial Excess Balance, would be equal to the aggregate amount of the Presented Items; provided, however, that: (a) the principal amount of the Loan shall not be less than the Minimum Loan Advance; (b) the principal amount of the Loan must be an integral multiple of the Incremental Advance Amount, and therefore, if it would not otherwise be an integral multiple of the Incremental Advance Amount, the amount of the Loan will be rounded up to the next higher integral multiple of the Incremental Advance Amount unless there is insufficient Line Availability in which case the Loan amount will be the Maximum Advance Amount; and (c) the principal amount of the Loan shall not exceed the Maximum Advance Amount. If at any time the amount of the initial Excess Balance is less than the amount of the Presented Items by an amount greater than the Maximum Advance Amount, Bank shall: (i) make a Loan by transferring funds into the Account in an amount equal to the Maximum Advance Amount; and (ii) determine, in its sole discretion, which Presented Items will be paid, and which Presented Items will not be paid. In the event the Initial Excess Balance is greater than the amount of the Presented Items, Bank shall post and pay all of the Presented Items. If, following Bank's posting and paying of all of the Presented Items, there remains a balance in the Account in excess of the Target Balance, Bank is hereby irrevocably authorized to debit the Account in an amount up to the portion of the balance in the Account which exceeds the Target Balance, and apply such sums to the outstanding balance of the Loans. Bank agrees to make such debit of the Account to repay sums outstanding under the Loans as of the end of each Business Day; provided, however, that in the event the option labeled "Cash Solutions Protection" is marked on Exhibit A attached hereto, Bank shall not automatically debit the Account to make payments on the Loans, but may do so, in its sole and absolute discretion.

3. **TERMINATION.** The procedure for making Loans, and the obligation of Bank to provide Loans, as set forth in this Promissory Note, may be terminated by Borrower upon ten (10) days prior written notice to Bank and may be terminated by Bank upon thirty (30) days prior written notice to Borrower. Upon termination, no further Loans shall be made under this Promissory Note, but all other terms of this Promissory Note (including, but not limited to, the holder's right to demand payment at any time and for any reason) shall remain in full force and effect.

4. INTEREST. From the date hereof until all sums due hereunder, including principal, interest, charges, fees and expenses are paid in full, the principal amount outstanding from time to time pursuant to this Promissory Note shall bear interest as follows (Check One):

Fluctuating Rate. At a fluctuating rate equal to \_\_\_\_\_ % per annum above the Prime Rate in effect from time to time. Bank at its discretion may charge a lesser rate from time to time. Interest on the principal amount outstanding shall be adjusted daily, with the rate for each day being adjusted to reflect the Prime Rate in effect at the close of business on that day. Bank makes loans at interest rates at, above and below the Prime Rate.

Other (describe): Interest shall accrue at a rate per annum equal to the Bank's Base Rate minus 1/2% as in effect from time to time.

5. CALCULATION OF INTEREST. Interest shall be calculated on the basis of a three hundred sixty (360) days per year factor applied to the actual days on which there exists an unpaid balance hereunder.

6. REPAYMENT. Borrower shall make payments of principal and interest in accordance with the following terms:

(a) Principal: ALL SUMS OUTSTANDING UNDER THIS PROMISSORY NOTE, INCLUDING THE PRINCIPAL AMOUNT OF ALL OF THE LOANS, ARE IMMEDIATELY DUE IN FULL UPON THE FIRST TO OCCUR OF: (i) THE DEMAND OF THE HOLDER OF THIS PROMISSORY NOTE, WHICH DEMAND MAY BE MADE AT ANY TIME AND FOR ANY REASON, IN THE SOLE AND ABSOLUTE DISCRETION OF THE HOLDER OF THIS PROMISSORY NOTE; OR (ii) THE OCCURRENCE OF ANY DEFAULT UNDER THE TERMS OF THIS PROMISSORY NOTE WITH 30 days written notice.

(b) Interest: Borrower shall make payments of all accrued and unpaid interest on the 31st day of each successive month, beginning on March 31, 1999 and continuing until all sums outstanding hereunder are paid in full.

Borrower may prepay this Promissory Note in whole or in part at any time or from time to time without premium or additional interest.

7. LATE PAYMENT CHARGE. If any payment due hereunder (including any payment in whole or in part of principal) is not received by the holder within fifteen (15) calendar days after its due date, Borrower shall pay a late payment charge equal to five percent (5%) of the amount then due.

8. APPLICATION OF PAYMENTS. All payments made pursuant to this Promissory Note shall be applied first to accrued and unpaid interest, then to unpaid expenses and charges payable hereunder, and then to principal; or in such other order or proportion as the holder, in the holder's sole discretion, may elect from time to time.

9. ~~See below~~ <sup>→ Unsecured</sup> SECURITY. Sums due under this Promissory Note are secured by, and Borrower grants to Bank a security interest in, all deposits and property of Borrower now or at any time hereafter in the possession of or on deposit with Bank whether as custodian or depository or in any other capacity. Bank shall have the right to set-off and apply against the obligations of Borrower to Bank evidenced by this Promissory Note any sums of Borrower at any time on deposit with Bank whether such deposits are special, time or demand, provisional or final. In addition, this Promissory Note is secured by any property described as collateral in any security agreement, pledge agreement or other document previously, simultaneously, or hereafter entered into by Borrower in connection with any obligation or liability of Borrower to Bank or any corporate affiliate of Bank, such other security documents(s) include but are not limited to the following:

Security Agreement(s)

Real estate mortgage or deed of trust on property known as \_\_\_\_\_ located in \_\_\_\_\_ County/City, State of \_\_\_\_\_

Other (describe): Unsecured

This Promissory Note specifically incorporates by reference, as if fully set forth herein, all of the language and provisions of the security documents described generally or specifically above.

10. REPRESENTATIONS AND WARRANTIES. Borrower (and if more than one Borrower, each Borrower) represents and warrants to Bank that the following statements are true, correct and complete as of the date hereof, and as of the date each Loan is made hereunder: (a) it is duly organized and in good standing under the laws of the state in which it is organized; (b) it has the full power and authority to execute, deliver and perform this Promissory Note; (c) neither such execution, delivery and performance, nor compliance by it with the provisions of this Promissory Note will conflict with or result in a breach or violation of its organizational documents, or any judgment, order, regulation, ruling or law to which it is subject or any contract or agreement to which it is a party or to which any of its assets and properties are subject; (d) this Promissory Note constitutes its legal, valid and binding obligation enforceable in accordance with its terms; (e) there is no litigation or proceeding pending or, to the knowledge of its representative signing this Promissory Note on its behalf, threatened against or affecting it which might materially adversely affect its business, financial condition or operations or its ability to perform and comply with this Promissory Note; (f) all financial statements and information furnished or to be furnished to Bank hereunder have been and will be prepared in accordance with generally accepted accounting principles and fairly present its financial condition as of the dates thereof and the results of its operations for the period covered thereby; (g) it is not in violation of any applicable federal, state or local law, statute, rule, regulation or ordinance and has not received any notice nor is the subject of any investigation to the effect that its operations are not in material compliance with any such law, statute, rule, regulation or ordinance, including, without limitation, applicable environmental, health and safety laws and regulations; (h) since September 2, 1974, no pension, employee benefit, multi-employer, profit sharing, savings, stock bonus or other deferred compensation plan ("Plan") maintained by it or any trade or business group with which it is affiliated subject to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) has been terminated, no lien exists against Borrower in favor of the Pension Benefit Guaranty Corporation ("PBGC"), and no "reportable event" (as such term is defined in ERISA) has occurred with respect to any such Plan, and Borrower has not incurred any "accumulated funding deficiency" within the meaning of ERISA or any liability to the PBGC in connection with any Plan; and (i) no information, exhibit, report, statement, certificate or document furnished by Borrower or any other person to Bank in connection with the Loans, this Promissory Note or the negotiation thereof contains any material

misstatement of fact or omission to state a material fact or any fact necessary to make the statements contained herein or therein not misleading.

11. **DEFAULT.** Any of the following will be a default under this Promissory Note: (a) failure to pay any principal, expense, fee, charge or interest when due, or failure to perform any other obligations hereunder; (b) a default by any Borrower upon any of the existing or future obligations of any Borrower to Bank; (c) a default by any guarantor or other person other than Borrower that is now or hereafter liable upon or in connection with any of the obligations of any Borrower to Bank or that has granted any lien or security interest to or for the benefit of Bank to secure any of the obligations of any Borrower to Bank ("Other Obligor"), upon any of the existing or future obligations of any Other Obligor to Bank; (d) a default in any other agreement, instrument or document between any Borrower or Other Obligor and Bank, or any corporate affiliate of Bank, including, without limitation, any security document referred to above, whether previously, simultaneously, or hereafter entered into; (e) a material adverse change in the financial condition of any Borrower or Other Obligor from that expressed in the financial statement most recently submitted to Bank prior to the date of this Promissory Note, as determined in good faith by Bank in its sole discretion; (f) institution of bankruptcy, insolvency, reorganization or receivership proceedings by or against any Borrower or Other Obligor in any state or federal court; (g) the appointment of a receiver, assignee, custodian, trustee or similar official under any federal or state insolvency or creditors' rights law for any property of any Borrower or Other Obligor; (h) failure of any Borrower or Other Obligor to furnish to Bank such collateral or additional collateral as Bank may in good faith request; (i) any warranty, representation, or statement to Bank by or on behalf of any Borrower or Other Obligor proving to have been incorrect in any material respect when made or furnished; (j) the occurrence of any event which is, or would be with the passage of time or the giving of notice or both, a default under any indebtedness of any Borrower or Other Obligor to any person other than Bank; (k) any material loss, theft or substantial damage, which is not fully insured, to any of the assets of any Borrower or Other Obligor, or the sale, transfer, lease, encumbrance or other disposition of all or any material part of the assets of any Borrower or Other Obligor other than in the ordinary course of business of Borrower or Other Obligor; (l) the entry of any final judgment against any Borrower or Other Obligor for the payment of money in excess of \$5,000.00; (m) the levy upon or attachment of any assets of any Borrower or Other Obligor; (n) the recording of any federal, state or local tax lien against any Borrower or Other Obligor; (o) a change of ownership or dissolution, merger, consolidation, liquidation or reorganization of any Borrower or Other Obligor which is a corporation, partnership or other legal entity; (p) the death of any Borrower or Other Obligor who is a natural person; (q) failure of any Borrower or Other Obligor to furnish to Bank such financial information as Bank may require from time to time, including, but not limited to, such financial statements as Bank may require; (r) failure of any Borrower or Other Obligor to comply with all laws, rules, regulations and decrees to which such Borrower or Other Obligor may be subject, the violation of which may have a material adverse effect on the business operation or financial condition of such Borrower or Other Obligor; (s) the acquisition by a Borrower of all or substantially all of the assets, properties or equity interest of any other person or entity without Bank's prior written consent; (t) failure of any Borrower to maintain its existence in good standing in the jurisdiction of its organization; (u) any of the licenses or permits which are necessary to the conduct of any Borrower's business as now conducted is not maintained in full force and effect; or (v) the determination by Bank, in its sole discretion, that the ability of any Borrower or Other Obligor to pay or perform any of their respective obligations to Bank is impaired for any reason.

12. **REMEDIES.** Upon a default, in addition to all other rights and remedies available to the holder of this Promissory Note under any document or agreement between Borrower and Bank or under applicable law, the holder of this Promissory Note, in the holder's sole discretion and without notice or demand, may raise the rate of interest accruing on the unpaid principal balance outstanding under this Promissory Note by two (2) percentage points above the rate of interest otherwise applicable. The Bank shall have no further obligation to provide any Loans to Borrower following: (a) a demand by Bank for payment hereunder; or (b) a default under this Promissory Note. Borrower agrees that a default under this Promissory Note is a default by Borrower under all other liabilities and obligations of Borrower to the holder, and that the holder shall have the right to declare immediately due and payable all liabilities and obligations owed by Borrower to the holder of this Promissory Note.

13. **CONFESSION OF JUDGMENT.** Borrower irrevocably and unconditionally authorizes any attorney admitted to practice before any court of record in the United States to appear on behalf of Borrower in any court in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and appear for, to confess and enter judgment against Borrower, at any time, whether before or after the occurrence of any default hereunder, with or without averment of default, with or without complaint filed, and without prior notice or opportunity of Borrower for prior hearing, in favor of the holder of this Promissory Note in the full amount outstanding on this Promissory Note (including principal, accrued interest and any and all charges, fees and expenses) plus court costs, plus attorneys' fees equal to fifteen percent (15%) of the unpaid balance of principal, interest, charges, and other sums outstanding hereunder, with release of all errors and without right of appeal. Borrower waives the benefit of any and every statute, ordinance, or rule of court which may be lawfully waived conferring upon Borrower any right or privilege of exemption, homestead rights, appraisal, stay of execution, or supplementary proceedings, or other relief from the enforcement or immediate enforcement of a judgment or related proceedings on a judgment. (To the extent prohibited by applicable law, any judgment obtained by confession shall not constitute a lien on any real property located in Pennsylvania which is the residence of the Borrower.) The authority and power to appear for and enter judgment against Borrower shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the same or different jurisdictions, as often as the holder shall deem necessary or advisable. BORROWER HEREBY ACKNOWLEDGES THAT THE CONFESSION OF JUDGMENT PROVISIONS HEREIN CONTAINED WHICH AFFECT AND WAIVE CERTAIN LEGAL RIGHTS OF BORROWER HAVE BEEN READ, UNDERSTOOD AND VOLUNTARILY AGREED TO BY BORROWER.

14. **EXPENSES.** Borrower shall pay all costs and expenses, including attorneys' fees (to the extent not prohibited by law) incident to the making of the Loans. Borrower shall pay all costs and expenses incurred by Bank in collecting sums due under this Promissory Note, including without limitation the costs of any lien, judgment or other record searches, appraisals, travel expenses and the like. In addition, if this Promissory Note is referred to an attorney for collection, whether or not judgment has been confessed or suit has been filed, Borrower shall pay all of the holder's costs, less referral.

15. **AMENDMENTS.** The fees and charges required to be paid by Borrower in connection with the Loans may, at any time and from time to time, be amended by Bank, upon prior written notice thereof to Borrower and otherwise in compliance with applicable law. Any such amendment shall become effective on the first day of the month in which Borrower obtains a Loan, after the date specified in the notice of amendment (which date shall be not less than thirty (30) days from the date

the notice was mailed to Borrower), or upon such other date as may be required in accordance with applicable law. If Borrower obtains a Loan after the date specified in the notice, the changes in the fees and charges described in the amendment shall apply to all outstanding unpaid indebtedness and obligations under this Promissory Note, whether incurred or arising prior to, upon, or after the effective date of the amendment.

**16. NEGOTIABLE INSTRUMENT.** Borrower agrees that this Promissory Note shall be deemed to be a negotiable instrument, even though this Promissory Note may not qualify under applicable law, absent this paragraph, as a negotiable instrument.

**17. WAIVERS.** Borrower, and all parties to this Promissory Note, whether maker, indorser, or guarantor, waive presentment, demand, notice of dishonor and protest.

**18. EXTENSIONS OF MATURITY.** All parties to this Promissory Note, whether maker, indorser, or guarantor, agree that the maturity of this Promissory Note, or any payment due hereunder, may be extended at any time or from time to time without releasing, discharging, or affecting the liability of such party.

**19. NOTICES.** Any notice or demand required or permitted by or in connection with this Promissory Note, without implying the obligation to provide any notice or demand, shall be in writing at the address set forth below or to such other address as may be hereafter specified by written notice to Bank by Borrower. Any such notice or demand shall be deemed to be effective as of the date of hand delivery or facsimile transmission, one (1) day after dispatch if sent by telegram, telegram, overnight delivery, express mail or federal express, or three (3) days after mailing if sent by first class mail with postage prepaid.

**20. ASSIGNABILITY.** This Promissory Note may be assigned by Bank or any holder at any time.

**21. JOINT AND SEVERAL LIABILITY.** If more than one person or entity is executing this Promissory Note as Borrower, all liabilities under this Promissory Note shall be joint and several with respect to each of such persons or entities.

**22. BINDING NATURE.** This Promissory Note shall inure to the benefit of and be enforceable by Bank and Bank's successors and assigns and any other person to whom Bank may grant an interest in Borrower's obligations to Bank, and shall be binding and enforceable against Borrower and Borrower's personal representatives, successors and assigns.

**23. INVALIDITY OF ANY PART.** If any provision or part of any provision of this Promissory Note shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Promissory Note and this Promissory Note shall be construed as if such invalid, illegal or unenforceable provision or part thereof had never been contained herein, but only to the extent of its invalidity, illegality or unenforceability.

**24. MAXIMUM RATE OF INTEREST; COMMERCIAL LOAN.** Notwithstanding any provision of this Promissory Note to the contrary, Borrower shall not be obligated to pay interest hereunder in excess of the maximum rate of interest permitted by the laws of any state determined to govern this Promissory Note or the laws of the United States applicable to loans in such state. If any provision of this Promissory Note shall ever be construed to require the payment of any amount of interest in excess of that permitted by applicable law, then the interest to be paid hereunder shall be held subject to reduction to the amount allowed under applicable law, and any sums paid in excess of the interest rate allowed by law shall be applied in reduction of the principal balance outstanding under this Promissory Note. Borrower acknowledges that it has been contemplated at all times by Borrower that the laws of the Commonwealth of Pennsylvania will govern the maximum rate of interest that it is permissible for the holder of this Promissory Note to charge Borrower under this Promissory Note. Borrower warrants that this Promissory Note evidences a loan made solely to acquire or carry on a business or commercial enterprise.

**25. CHOICE OF LAW; CONSENT TO VENUE AND JURISDICTION.** This Promissory Note shall be governed, construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, even if the Commonwealth of Pennsylvania rules governing conflicts of laws would otherwise require that the laws of another jurisdiction govern this Promissory Note. Borrower consents to the jurisdiction and venue of the courts of any city or county in the Commonwealth of Pennsylvania or to the jurisdiction and venue of the United States District Court for the Middle District of Pennsylvania in any action or judicial proceeding brought to enforce, construe or interpret this Promissory Note.

**26. UNCONDITIONAL OBLIGATIONS.** Borrower's obligations under this Promissory Note shall be the absolute and unconditional duties and obligations of Borrower and shall be independent of any rights of set-off, recoupment or counterclaim which Borrower might otherwise have against the holder of this Promissory Note, and Borrower shall pay absolutely the payments of principal, interest, fees, charges and expenses required hereunder, free of any deductions and without abatement, diminution or set-off.

**27. ACTIONS AGAINST BANK.** Any action brought by Borrower against Bank which is based, directly or indirectly, or in whole or in part, upon this Promissory Note or any matter related to this Promissory Note shall be brought only in the courts of the Commonwealth of Pennsylvania.

**28. WAIVER OF JURY TRIAL.** Borrower (by execution of this Promissory Note) and Bank (by acceptance of this Promissory Note) agree that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by Borrower, Bank, or any successor or assign of Borrower or Bank on or with respect to this Promissory Note or which in any way relates, directly or indirectly, to the obligations of Borrower to Bank under this Promissory Note, or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. BORROWER AND BANK HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING. Borrower and Bank acknowledge and agree that this provision is a specific and material aspect of the agreement between the parties and that Bank would not enter into the transaction with Borrower if this provision were not a part of their agreement.

[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned executes this Promissory Note under seal, as Borrower, as of the date first written above.

WITNESS/ATTEST\*:

CCI Construction Co., Inc.

(Name of Organization)

7500 Old Gettysburg Rd

(Street Address)

Camp Hill, Pa 17011

(City-State-Zip)

717-909-4224 717-909-4640

(Telephone)

(Facsimile)

E.M. Avery

E.M. Avery, Assistant Secretary

(Print Name)

By:

Sheri Phillips, CFO

(SEAL)

Sheri Phillips, CFO

(Print Name and Title)

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

\_\_\_\_\_

(Print Name and Title)

\*NOTE: Attestation by a corporate officer of another corporate officer's capacity to sign is required in all corporate transactions.

If Borrower is an individual he or she should sign below:

WITNESS:

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

(Print Name)

(Print Name)

\_\_\_\_\_

(Street Address)

\_\_\_\_\_

(City-State-Zip)

\_\_\_\_\_

(Telephone)

(Facsimile)

**EXHIBIT A**  
**FILM/Cash Solutions Promissory Note**

Account Number: 28864514

Borrower: CCI Construction Co., Inc.

The terms and provisions of the option checked below are incorporated in and made a part of the FILM/Cash Solutions Promissory Note executed by Borrower to which this Exhibit A is attached:

FILM LOAN OPTION - The following terms apply to this option:

- i) Maximum Line Amount - \$4,000,000.00
- ii) Minimum Loan Advance - \$0.01
- iii) Incremental Advance Amount - \$1.00
- iv) Target Balance - \$ 0
- v) Fees - \$ 0

[ ] CASH SOLUTIONS PROTECTION OPTION - The following terms apply to this option:

- i) Maximum Line Amount - \_\_\_\_\_
- ii) Minimum Loan Advance - \$500.00
- iii) Incremental Advance Amount - \$500.00
- iv) Target Balance - \$ \_\_\_\_\_
- v) Fees - \_\_\_\_\_

[ ] CASH SOLUTIONS MAXIMIZER OPTION - The following terms apply to this option:

- ii) Maximum Line Amount - \_\_\_\_\_
- iii) Minimum Loan Advance - \$500.00
- iv) Incremental Advance Amount - \$500.00
- v) Target Balance - \$ \_\_\_\_\_
- vi) Fees - \_\_\_\_\_
- vii) Balance in Account is not transferred to investments until all Loans are paid in full.

CASH SOLUTIONS LOAN OPTION - The following terms apply to this option:

- ii) Maximum Line Amount - \_\_\_\_\_
- iii) Minimum Loan Advance - \$500.00
- iv) Incremental Advance Amount - \$500.00
- v) Target Balance - \$ \_\_\_\_\_
- vi) Fees - \_\_\_\_\_

**WITNESS/ATTEST:**

**BORROWER:**

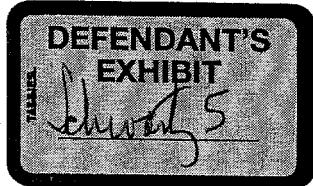
CAT Construction Co., Inc.

By

Name: Sheri Phillips (SEAL)  
Title: CFO

If Borrower is an individual he or she should sign below:

Name: \_\_\_\_\_ (SEAL)



INTER-OFFICE MEMORANDUM

TO: File

FROM: Craig Schwartz

DATE: 11/4/99

RE: CCI Construction

---

A meeting was held with Sherri Phillips CFO and John Ortenzio President of CCI and Michael Zarcone to discuss the requested financing of a line of credit increase.

We decided that an increase of \$1,200,000.00 million will be done on a temporary basis and CCI will get an additional \$500,000 from private sources. This should be sufficient to meet their current cash flow shortage.

C 0558



allfirst

DEFENDANT'S EXHIBIT

A handwritten signature in black ink, appearing to read "Shadwell S."

Allfirst Bank  
P.O. Box 2961  
Harrisburg, PA 17108-2961

November 5, 1999

Mr. John M Ortenzio, President  
CCI Construction Co., Inc  
P.O. Box 8800  
Mechanicsburg, PA 17055

Dear John:

I am pleased to inform you that Allfirst Bank (hereinafter "Bank") has approved a \$1,200,000 partially secured line of credit to CCI Construction Co., Inc. (hereinafter "Borrower") as follows:

Principal Amount of Line:	\$1,200,000.00
Interest Rate:	Bank's Base Rate as in effect from time to time, minus 1/2%.
Repayment:	Interest payable monthly, principal on demand.
Use of Proceeds:	Finance work in progress and accounts receivable.
Collateral:	Specific equipment financed, including titled vehicles

Borrowings under Loan will bear interest at an annual rate equal to the Bank's Base Rate as in effect from time to time, minus one-half percent. This interest will change when and as the Bank's Base Rate changes. Interest will be calculated on the basis of the actual number of days in the current calendar year divided by 360. Interest will be payable monthly upon submission of the Bank's notice therefor.

Borrowings under the Loan will be payable on demand. If no demand is made, the Loan will expire and all borrowings will be due and payable, together with interest thereon, on March 31, 2000.

Borrowings under the Loan shall be limited to 80% of the Borrower's qualified accounts receivable which are less than 90 days past due, excluding retainages.

C 0400

CCI Construction Co., Inc.  
November 5, 1999  
Page Two

The Loan will be supported by the personal Suretyship of John M. Ortenzio limited to \$1,200,000.

The Borrower shall furnish the Bank with financial reporting as follows:

1. Annual CPA- audited financial statements of CCI Construction Co., Inc.
2. Quarterly work in process reports for CCI Construction, Co., Inc.
3. Quarterly Company prepared financial statements of CCI Construction Co., Inc.
4. Monthly borrowers certification with monthly accounts receivable aging and listing.
5. Annual personal financial statement of John M. Ortenzio.

The Borrower shall maintain a primary business deposit relationship with the Bank.

The Borrower will not create, assume or permit to exist, any mortgage, pledge, lien or encumbrance of or upon, or security interest in any of Borrower's property or assets now owned or hereafter acquired in favor of the Bank, other than purchase money, without prior written consent of the Bank.

The availability to the Loan is contingent upon the Borrower and the Bank entering into mutually acceptable loan documentation setting forth the terms and conditions contained herein and such other terms and conditions, covenants, warranties and representations as may be required by the Bank and be mutually acceptable to the Borrower and the Bank. All terms and conditions contained herein shall survive the execution of such loan documentation.

The commitment is contingent upon the right of the Bank at any time hereafter and from time to time to review the commitment, to adjust terms and conditions, or to discontinue the commitment should the Bank in the reasonable exercise of its sole business discretion deem it necessary to do so.

CCI Construction Co., Inc.  
November 5, 1999  
Page Three

Please indicate the acceptability of these terms and conditions by dating, signing, and returning an executed copy of this letter no later than November 19, 1999.

Very truly yours,

Craig J. Schwartz  
Vice President

CJS/mas

Enclosure

ACKNOWLEDGED AND ACCEPTED THIS

DAY OF

, 1999.

ATTEST:

BY:

Craig J. Schwartz  
Title: Sec/Treas

CCI CONSTRUCTION CO., INC.

BY:

John Ortenzio  
Title: Pres

WITNESS:

John M. Ortenzio

SURETY:

John M. Ortenzio  
John M. Ortenzio



COMMERCIAL LOAN NOTE  
LINE OF CREDIT

\$ 1,200,000.00

Date 11-8-99

FOR VALUE RECEIVED, the undersigned, CCI Construction Co., Inc. a (corporation/partnership/limited liability company/individual) (the "Borrower"), jointly and severally (if more than one), promise to pay to the order of ALLFIRST BANK, a Maryland state-chartered commercial bank (the "Bank") or its assigns, the principal amount of ONE MILLION TWO HUNDRED THOUSAND & NO/100 DOLLARS to be paid as follows:

Principal is payable on demand.

Interest is payable monthly, accrued to date of Bank's notice thereof, with all accrued and unpaid interest, and unpaid fees and charges, due with the principal payment.

Interest shall accrue at a rate per annum equal to the Bank's Base Rate minus .50000% as in effect from time to time. The term "Bank's Base Rate," which is not necessarily the lowest rate of interest charged by the Bank, is defined as the prime rate of interest for loans established by the Bank from time to time.

Interest shall be calculated on the basis of the actual number of days elapsed and a year of 360 days. Both principal and interest are payable in lawful money of the United States of America at any office of Bank in immediately available funds. If any payment due hereunder is received by the Bank more than fifteen (15) calendar days after its due date, the Borrower shall pay a late payment charge equal to five percent (5%) of the amount then due or \$10.00, whichever is greater.

**APPLICATION OF PAYMENTS.** All payments made hereunder shall be applied first to late payment charges or other sums owed to the Bank, next to accrued interest, and then to principal, or in such other order or proportion as the Bank, in its sole and absolute discretion, may elect from time to time.

**SECURITY.** The payment of this note and any renewals, extensions and modifications thereof, and the payment, performance and discharge of all other present or future indebtedness, obligations and undertakings (individual, joint, several, direct, contingent, or otherwise) of the Borrower to or for the benefit of the Bank, whether arising directly to the Bank under this note or under any other agreement, promissory note or undertakings now existing or hereinafter entered by the Borrower to the Bank (collectively, the "Liabilities") is secured by the property described in, and under and pursuant to the terms and conditions of that certain:

Collateral as set forth in a Security Agreement - Specific Collateral dated 11/18/99.

EXHIBIT

7

3121/PW Hunt

As additional security for the Liabilities, Borrower grants the Bank a lien-upon and a security interest in any securities, instruments or other personal property of Borrower now or hereafter in Bank's possession and in any deposit balances now or hereafter held by Bank for Borrower's account and in all proceeds of any such personal property or deposit balances. Such liens and security interests shall be independent of Bank's right of setoff.

**STATEMENT OF ACCOUNT.** The Bank will furnish the Borrower with a statement of account on a periodic basis. Each and every statement of account shall be final, conclusive and binding upon the Borrower in all respects as to the outstanding balance of principal and as to all loans, fees, interest, charges, payments, receipts, balances, and all other matters reflected therein unless the Borrower, within ten (10) days after the posting thereof in the United States mail, shall give notice to the Bank in writing of any objections which the Borrower may have to any such statement of account; and in such event, only those items expressly objected to in such written notice shall be considered to be disputed by the Borrower and all other items shall be binding.

**PAYMENT OF COSTS.** In addition to the principal and interest payments specified above, the Borrower shall pay to the Bank or any other holder of this note, upon demand, all costs and expenses (including reasonable attorneys' fees, whether or not litigation is commenced) which may be incurred by the Bank or such holder in the collection or enforcement of this note. Said costs shall include reasonable attorneys' fees and costs in bankruptcy proceedings and any costs and attorneys' fees incurred for any action or proceeding in relation to the loan transaction, including but not limited to the joinder of the Bank in any action between the Borrower and a third party.

**DEFOLTS.** The Borrower shall be in default hereunder upon occurrence of any of the following events: (a) the nonpayment when due of any amount payable on any of the Liabilities, or the failure of any Obligor to observe or perform any agreement of any nature whatsoever with the Bank (the term "Obligor" as used herein being meant to include the Borrower and all persons liable on the note or any renewals, extensions, or modification thereof, such as endorsers, sureties, or guarantors); (b) if any Obligor becomes insolvent or makes an assignment for the benefit of creditors, or if any petition is filed by or against any Obligor under any provisions of any law or statute alleging that such Obligor is insolvent or unable to pay debts as they mature; (c) the entry of any judgment against any Obligor or the issuing of any attachment or garnishment against any property of any Obligor or the occurrence of any change in the financial condition of any Obligor which in the sole judgment of the Bank is materially adverse; (d) the dissolution, merger, consolidation or reorganization of any Obligor, which is an entity such as a corporation, limited partnership, partnership or limited liability company; (e) the death of any Obligor who is a natural person; (f) any information heretofore or hereinafter furnished to the Bank by any Obligor in connection with the loan evidenced hereby or any suretyship or guaranty should be materially false; and (g) the failure of any Obligor to furnish such financial and other information as the Bank may reasonably request. If this Note is payable on demand, Bank's right to demand payment hereof shall not be restricted or impaired by the absence of, non-occurrence of or waiver of a default hereunder, and it is understood that Bank may demand payment at any time after giving Borrower a 30-day written notice of demand.

**ACCELERATION AND ENFORCEMENT RIGHTS.** Whenever the Borrower shall be in default as aforesaid, (1) unless the Bank elects otherwise, the entire unpaid amount of such of the Liabilities as are not then due and payable shall become immediately due and payable without notice to or demand on any Obligor, and (2) the Bank may at its option exercise from time to time any or all rights and remedies available to it at law or in equity. The Borrower waives all right to stay of execution or garnishment and exemption of property in any action to enforce any of the Liabilities.

**JUDGMENT.** The Borrower does hereby authorize and empower any attorney of any court of record of Pennsylvania or elsewhere to appear for and enter judgment against Borrower for the above sum, with or without declaration, with costs of suit, including reasonable attorneys' fees and fees in bankruptcy proceedings, if any, release of errors, without stay of execution, and with fifteen (15%) percent added for collection fees, and the Borrower further agrees that real, personal property may be sold or garnished upon any writ of execution or writ of garnishment as now or hereafter provided by law or the Pennsylvania Rules of Civil Procedure governing the enforcement of judgments; and Borrower hereby waives copy hereof, verified by affidavit, shall have been filed in such proceeding, it shall not be necessary to file the original as a warrant of attorney. The Borrower (and each of them, if more than one) hereby waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of this warrant and power to confess judgment shall be deemed to exhaust this power, whether or not any such exercise shall be held by any court to be invalid, voidable or void, but this power shall continue undiminished and may be exercised from time to time as often as Bank shall elect until all sums due hereunder shall have been paid in full.

**WAIVERS.** The Borrower hereby waives presentment, notice of dishonor and protest. The Borrower hereby waives and releases all errors, defects and imperfections of a procedural nature in any proceedings instituted by the Bank hereunder, or personal, or any part of the proceeds arising from any sale of such property, from garnishment, attachment, levy or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment. The Borrower agrees that any property, real or personal, that may be levied upon pursuant to any writ of execution or writ of garnishment issued on any judgment by virtue of this note, may be sold, in whole or in part, in any order desired by the Bank.

**HOLDERS IN DUE COURSE.** This note may be assigned by the Bank or any subsequent holder of this note at any time or from time to time. The Borrower hereby agrees that no subsequent holder of this note to whom the note was transferred for value shall be subject to any claims or defenses which the Borrower may have against a prior holder, all of which are waived as to such subsequent holder, and that all such subsequent holders shall have all of the rights of a holder in due course even though the subsequent holder may not qualify, under applicable law, absent this paragraph, as a holder in due course.

**MISCELLANEOUS.** Any failure of the Bank to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other right at any other time. If the Borrower consists of more than one person, such persons shall be jointly and severally liable hereunder. The Borrower intends this to be a sealed instrument and to be legally binding and enforceable against the Borrower, its legal representatives, successors and permitted assigns. All issues arising hereunder shall be governed by the laws of Pennsylvania without giving effect to choice of law rules.

WITNESS OR ATTEST:

  
Name and Title \_\_\_\_\_ (Seal)

2500 Old Gettysburg Road Camp Hill, PA 17001  
Address

CCI Construction Co., Inc.

BORROWER:

(Name of Individual, Corporation, Partnership or Limited Liability Company)

By:   
Name and Title \_\_\_\_\_ (Seal)

By: \_\_\_\_\_ (Seal)

By: \_\_\_\_\_ (Seal)

By: \_\_\_\_\_ (Seal)



allfirst

EXHIBIT

Ortenzio  
213101-TUS

SURETYSHP AGREEMENT

under the \*1,200,000 commercial loan note dated 11-8-99 *Jep*

Date

11-8-99

For value received, the Undersigned, jointly and severally, hereby unconditionally agree to make prompt payment of all obligations, indebtedness and liabilities due Allfirst Bank, a Maryland state-chartered commercial bank, hereinafter called "Bank," of any kind, whether now existing or hereafter arising, due or which may become due, whether by acceleration or otherwise, absolute or contingent, joint or several, direct or indirect, secured or unsecured, by CCI Construction Co., Inc.

hereinafter called "Borrower," all such obligations being hereinafter further described and collectively called the "Liabilities," and the Undersigned agree(s) to pay all expenses (including attorneys' fees and legal expenses, whether or not litigation is commenced) paid or incurred by the Bank in endeavoring to collect the Liabilities or any part thereof, whether or not bankruptcy has been declared, and in enforcing this Suretyship Agreement. The liability of the Undersigned hereunder is a primary and direct obligation without regard to any other obligor or security or collateral held by the Bank. *JMD 45*

The Undersigned hereby waive all notices of any character whatsoever with respect to this Suretyship Agreement and the Liabilities of the Borrower for which the Suretyship Agreement has been executed, including but not limited to notice of the acceptance hereof and reliance hereon and notice of default by the Borrower. The Undersigned hereby give consent to the Bank to the taking of, or failure to take, from time to time, without notice to the Undersigned, any action of any nature whatsoever with respect to the Liabilities of the Borrower, with respect to any rights against any person or persons, including the Borrower and any of the Undersigned, in any property, including, but not limited to, any postponements, compromises, indulgences, waivers, extensions, exchanges, releases, and satisfactions. The Undersigned shall remain fully liable on this Suretyship Agreement, notwithstanding any of the foregoing.

This Suretyship Agreement shall in all respects be a continuing, absolute and unconditional one, and shall remain in full force and effect (notwithstanding, without limitation, the death, incompetency or dissolution of any of the Undersigned or that at any time, or from time to time, all Liabilities may have been paid in full). This Suretyship Agreement is subject to discontinuance as to any of the Undersigned only upon actual receipt by the Bank of written notice from such Undersigned, or any person duly authorized and acting on behalf of such Undersigned, of the discontinuance hereof as to such Undersigned; provided, however, that no such notice of discontinuance shall affect or impair any of the agreements and obligations of such Undersigned hereunder with respect to (a) any and all Liabilities existing prior to the time of actual receipt of such notice by the Bank, (b) any and all Liabilities created or acquired thereafter pursuant to any previous binding commitments made by the Bank, (c) any and all extensions or renewals of any of the foregoing, (d) any and all interest on any of the foregoing, and (e) any and all expenses paid or incurred by the Bank in endeavoring to collect any of the foregoing and in enforcing this Suretyship Agreement against such Undersigned. All obligations of the Undersigned under this Suretyship Agreement shall, notwithstanding any such notice of discontinuance, remain fully in effect until all Liabilities not subject to an effective notice of discontinuance (including any extensions or renewals of any thereof) and all such interest and expenses shall have been paid in full. Any notice of discontinuance by or on behalf of any one of the Undersigned shall not affect or impair the obligations hereunder of any other of the Undersigned.

At the option of Bank, all Liabilities of Borrower shall become immediately due and payable by the Undersigned, without demand or notice, in the event any of the following shall occur: (a) Borrower shall fail to make any payment or meet any other liability when due; (b) Borrower or the Undersigned shall fail to observe or perform any obligation, term, condition or provision of Borrower under any document evidencing or securing the Liabilities, this Suretyship Agreement or any other agreement, document, certificate, instrument of security, suretyship or guaranty given by Borrower to Bank; (c) Any representation, warranty or certificate made or furnished by Borrower to Bank, in connection with the Liabilities or any other agreement, document, certificate, instrument of security, suretyship or guaranty given by Borrower to Bank or in any certificate, financial statement or separate assignment made hereunder shall be materially false; (d) Borrower or any of the Undersigned shall make an assignment for the benefit of creditors; (e) Proceedings in bankruptcy or for reorganization of Borrower or any of the Undersigned or for the readjustment of any of their debts under the Bankruptcy Act, as amended, or in any part thereof, or under any other act or law, whether state or federal, for the relief of debtors now or hereafter existing, shall be commenced by or against Borrower or the Undersigned; (f) A receiver or trustee shall be appointed for Borrower or any of the Undersigned or for any substantial part of their assets; or any proceedings are instituted for the dissolution, or the full or partial liquidation, of Borrower or any of the Undersigned; (g) Material adverse changes in the financial condition of the Borrower or any of the Undersigned; (h) A death of Borrower or any of the Undersigned or, if Borrower or the Undersigned is a partnership, the death of any general partner; or (i) Borrower or any of the Undersigned ceases doing business as a going concern.

As security for the Liabilities hereunder, the Undersigned hereby grants Bank a security interest in the following:  
NONE

Together with a right, without demand or notice of any kind, at any time and from time to time when any amount shall be due and payable by the Undersigned hereunder and in such order of application as the Bank may elect, to set-off against all monies, deposits or other property of any kind, without limitation, owned by the Undersigned or in which the Undersigned has a joint or contingent interest and which are in possession of Bank for any reason whatsoever

The Undersigned further agree that, if at any time, any part of any payment theretofore applied by the Bank to any of the Liabilities is or must be returned by the Bank for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of the Borrower), such Liabilities shall, for the purposes of this Suretyship Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Bank, and this Suretyship Agreement shall continue to be effective or be reinstated, as the case may be as to such Liabilities, all as though such application by the Bank had not been made. In such an event the Undersigned hereby waives any right of contribution, subrogation or indemnification against the Borrower, for a period of twelve (12) months subsequent to the last payment made or due to be made from Borrower to Bank.

The Bank may, from time to time, whether before or after any discontinuance of this Suretyship Agreement, at its sole discretion and without notice to the Undersigned (or any of them), take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Liabilities or any obligation hereunder; (b) retain or obtain the primary or secondary obligation of any obligor or obligors in addition to the Undersigned, with respect to any of the Liabilities; (c) extend or renew for one or more periods (whether or not longer than the original period), alter or exchange any of the Liabilities, or release or compromise any obligation of any of the Undersigned hereunder or any obligation of any nature of any other obligor with respect to any of the Liabilities; (d) release its security interest in, or surrender, release or permit any substitution or exchange for, all or any part of any property securing any of the Liabilities or any obligation hereunder, or extend or renew for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any obligor with respect to any such property; and (e) resort to the Undersigned for any of them for payment of any of the Liabilities, whether or not the Bank shall have resorted to any property securing any of the Liabilities for payment of any of the Liabilities, or any obligation hereunder or shall have proceeded against any other of the Undersigned or any other for primary or secondary obligation with respect to any of the Liabilities.

Any amounts received by the Bank from whatever source on account of the Liabilities may be applied by Bank toward the payment of such of the Liabilities and in such order of application, as the Bank may from time to time elect; and, notwithstanding any payments made by or for the account of the Undersigned pursuant to this Suretyship Agreement, the Undersigned shall not be subrogated to any rights of the Bank until such time as this Suretyship Agreement shall have been discontinued as to all of the Undersigned and the Bank shall have received payment of the full amount of all Liabilities and of all obligations of the Undersigned hereunder. The Bank shall not be obligated under any theory of law relating to the marshalling of payment received or security interest granted under the terms of this Suretyship Agreement.

The Bank may, from time to time, before or after any discontinuance of this Suretyship Agreement, without notice to the undersigned (or any of them), assign or transfer any or all of the Liabilities or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Liabilities shall be and remain Liabilities for the purpose of this Suretyship Agreement and each and every immediate and successive assignee or transferee of any of the Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee, be entitled to the benefits of this Suretyship Agreement to the same extent as if such assignee or transferee were the Bank; provided, however, that unless the Bank shall otherwise consent in writing, the Bank shall have an unimpaired right prior and superior to that of any such assignee or transferee, to enforce this Suretyship Agreement for the benefit of the Bank, as to those of the Liabilities which the Bank has not assigned transferred.

No modification or waiver of any of the provisions of this Suretyship Agreement shall be binding upon the Bank except as expressly set forth in writing duly signed by each of the Undersigned and the Bank. No action of the Bank permitted hereunder shall in any way affect or impair the rights of the Bank and the obligation of the Undersigned under this Suretyship Agreement. For the purpose of this Suretyship Agreement, Liabilities shall include all obligations of the Borrower to the Bank notwithstanding any right or power of the Borrower or anyone else to assert any claim or defense as to the invalidity or unenforceability of any such obligation and no such claim or defense shall affect or impair the obligations of the Undersigned hereunder.

The Liability of the Undersigned for Liabilities of Borrower incurred on or prior to the date hereof shall not exceed, at any time, the aggregate principal amount of ONE MILLION TWO HUNDRED THOUSAND & NO/100 DOLLARS (\$ 1,200,000.00).

(1,200,000 Commercial loan note dated 11-8-99 JMO CP), plus interest as stated in the evidence of indebtedness given by Borrower to Bank and fifteen percent (15%) attorneys' commission; provided that this Suretyship Agreement shall also be applicable to and extend to any and all Liabilities, plus interest and costs as aforesaid, of Borrower arising after the date hereof even if the total of such Liabilities plus the Liabilities outstanding on or prior to the date hereof exceed the aforementioned aggregate principal amount. If no limitation is inserted in this paragraph, there is no limit to the liability of the Undersigned to the Bank.

The creation or existence from time to time of Liabilities in excess of any amount to which the right of recovery under this Suretyship Agreement is limited is hereby authorized, without notice to the Undersigned (or any of them), and shall in no way affect or impair the rights of the Bank and the obligation of the Undersigned under this Suretyship Agreement.

The Undersigned, jointly and severally, do hereby authorize and empower any prothonotary or clerk or attorney of any court of record of Pennsylvania or elsewhere, to appear for and confess judgment against any or all of the Undersigned in favor of Bank for the total liability of the Undersigned as set forth herein together with interest thereon, with or without declaration, with costs of suit, release of errors, without stay of execution or garnishment and with fifteen percent (15%) for collection fees, and waive the right of inquisition, and the benefit of all exemption laws now or hereinafter enacted, and agree to condemnation, and the sale of real estate or personal property, or a writ of execution.

In the event the Bank acquires any property securing this Suretyship Agreement after a foreclosure sale as to real property or a public auction sale as to personal property, the Undersigned agrees to indemnify and hold the Bank harmless from any loss, costs, or expense which the Bank may sustain as a result of: (a) selling the real or personal property so acquired for less than the total sums owed by the Borrower to the Bank, provided, however, that any such sale by the Bank is done in a commercially reasonable manner or (b) any action brought against the Bank under 5548 or 5544(b) of the United States Bankruptcy Code, as amended, on the ground that the consideration paid by the Bank for the real or personal property was not "fair equivalent value," within the contemplation of 5544(b) of the United States Bankruptcy Code, as amended, or any applicable state fraudulent conveyance act.

The Undersigned waive and release the Bank from any damages which the Undersigned may incur as a result of any intentional or unintentional or negligent action or inaction of the Bank impairing, diminishing, or destroying any of the Undersigned's rights of subrogation which the Undersigned may have upon payment of any of the Borrower's obligations. The Undersigned acknowledges previously having waived, under certain conditions, any such

(1,200,000 Commercial loan note dated 11-8-99 JMO CP) to Bank by or on behalf of the Borrower which is determined to be a preference payment benefiting the undersigned.

If a photostatic copy hereof shall have been filed in any of said proceedings, it shall not be necessary to file the original as a warrant of attorney. The foregoing warrant and power to confess judgment shall not be deemed to have been exhausted by any single exercise thereof, whether or not any such exercise shall be held by any court to be invalid, voidable or void, but may be exercised from time to time, as often as the Bank shall elect, until all sums payable or that may become payable by each of the Undersigned have been paid in full.

A subsequent guaranty or suretyship by the Undersigned or any other guarantor or surety of the Borrower's Liabilities given to the Bank shall not be deemed to be in lieu of or to supersede or terminate this Suretyship Agreement but shall be construed to be additional or supplementary unless otherwise expressly provided therein; and in the event the Undersigned or any other guarantor or surety has given to the Bank a previous guaranty or Suretyship Agreement, this Suretyship Agreement shall be construed to be additional or supplementary, and not to be in lieu thereof or to terminate such previous Suretyship Agreement, guaranty or guaranties unless expressly so provided herein.

This Suretyship Agreement shall be binding upon the Undersigned, and upon the heirs, legal representatives, successors and assigns of the Undersigned, and to the extent that the Borrower or any of the Undersigned is an entity such as a partnership, limited partnership, limited liability company, corporation or any other similar entity, all references herein to the Borrower and to the Undersigned, respectively, shall be deemed to include any successor or successors, whether immediate or remote, to such entity. If more than one party shall execute this Suretyship Agreement, the term "Undersigned" as used herein shall mean all parties executing this Suretyship Agreement and each of them, and all such parties shall be jointly and severally obligated hereunder.

This Suretyship Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania without giving effect to choice of law rules. Wherever possible each provision of this Suretyship Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any provision of this Suretyship Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Suretyship Agreement.

INTENDING TO BE LEGALLY BOUND HEREBY, the Undersigned have set their respective hands and seals the day and year first above written.

WITNESS OR ATTEST:

(SURETY) John M. Ortenzio

Title: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Title: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Title: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Title: \_\_\_\_\_

CCI CONSTRUCTION COMPANY, INC.

YEARS ENDED  
DECEMBER 31, 1998 AND 1997

EXHIBIT

3

3/13/07 V HMLH

**CCI CONSTRUCTION COMPANY, INC.**

YEARS ENDED DECEMBER 31, 1998 AND 1997

**CONTENTS**

	Page
Independent auditors' report	1
Financial statements:	
Balance sheets	2
Statements of income	3
Statements of shareholder's equity	4-5
Statements of cash flows	6-7
Notes to financial statements	8-13
Accompanying information to financial statements:	
Cost of contracts	14
General and administrative expenses	15
Earnings from contracts	16
Completed contracts	17
Contracts-in-progress	18



Independent Auditors' Report

Board of Directors  
CCI Construction Company, Inc.  
Mechanicsburg, Pennsylvania

We have audited the accompanying balance sheets of CCI Construction Company, Inc. as of December 31, 1998 and 1997 and the related statements of income, shareholder's equity and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of CCI Construction Company, Inc. as of December 31, 1998 and 1997 and the results of its operations and its cash flows for the years then ended, in conformity with generally accepted accounting principles.

Our audits of the financial statements were made for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying information is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

February 10, 1999

*Brown, Schuh, Sheridan & Fritz*

CERTIFIED PUBLIC ACCOUNTANT  
BUSINESS ADVISOR  
A PROFESSIONAL CORPORATION  
1011 MUMMA ROAD  
WORMLEYSBURG, PA 17066  
PO BOX 62  
HARRISBURG, PA 17106-0062  
717-761-4444  
FAX: 800-294-2555  
1725 OREGON  
LANCASTER, PA 17604  
717-560-0444  
PA: 800-294-2555  
FAX: 717-560-0444  
WEBSITE: WWW.BSSF.COM

## CCI CONSTRUCTION COMPANY, INC.

## BALANCE SHEETS - DECEMBER 31, 1998 AND 1997

## ASSETS

	1998	1997
Current assets:		
Cash and cash equivalents	\$ 2,429,866	\$ 1,128,337
Investments in marketable securities	631,481	3,702,992
Accounts receivable, trade:		
Customers:		
Current	5,964,311	8,230,674
Retained	1,822,224	1,121,610
Affiliates	365,756	3,485
Note receivable	22,569	
Costs and estimated earnings in excess of billings on uncompleted contracts	6,341,726	1,072,281
Prepaid expenses	170,232	6,185
Shop inventory	<u>38,161</u>	<u>639</u>
Total current assets	<u>17,763,757</u>	<u>15,288,772</u>
Property and equipment:		
Automobiles and trucks	1,269,567	427,342
Furniture	851,738	553,587
Machinery and equipment	5,947,290	1,323,233
Other	344,128	72,453
Less accumulated depreciation	<u>8,412,723</u>	<u>2,376,515</u>
	<u>1,651,485</u>	<u>920,919</u>
	<u>6,761,238</u>	<u>1,455,696</u>
Other assets:		
Cash surrender value of officer's life insurance	55,453	
Investments	<u>34,000</u>	
	<u>89,453</u>	
	<u>\$ 24,614,448</u>	<u>\$ 16,744,468</u>

See notes to financial statements.

## LIABILITIES AND SHAREHOLDER'S EQUITY

	1998	1997
Current liabilities:		
Accounts payable, trade:		
Current	\$ 10,974,274	\$ 7,846,395
Retained	2,180,967	1,078,950
Notes payable	1,338,280	815,781
Current portion of long-term debt	333,060	808,601
Accrued expenses	91,601	58,023
Taxes withheld and accrued	288,208	681,924
Billings in excess of costs and estimated earnings on uncompleted contracts		
Total current liabilities	15,206,390	11,289,674
Long-term debt, net of current portion	<u>4,164,375</u>	<u>        </u>
Total liabilities	<u>19,370,765</u>	<u>11,289,674</u>
Shareholder's equity:		
Common stock, \$1 par, 1,000 shares authorized; 39 shares issued and outstanding	39	39
Capital in excess of par	9,758	9,758
Retained earnings	5,254,834	5,208,489
Accumulated other comprehensive income (loss), unrealized gain (loss) on marketable securities	( 20,948)	236,508
	<u>5,243,683</u>	<u>5,454,794</u>
	<u><u>\$ 24,614,448</u></u>	<u><u>\$ 16,744,468</u></u>

## CCI CONSTRUCTION COMPANY, INC.

## STATEMENTS OF INCOME

YEARS ENDED DECEMBER 31, 1998 AND 1997

	1998	1997
Revenue	\$ 52,534,453	\$ 34,921,676
Cost of contracts	<u>51,145,382</u>	<u>32,617,473</u>
Gross profit	1,389,071	2,304,203
General and administrative expenses	<u>1,505,700</u>	<u>1,954,380</u>
Income (loss) from operations	<u>( 116,629)</u>	<u>349,823</u>
Other income (expense):		
Gain (loss) on sale of:		
Marketable securities and cash equivalents	260,927	( 6,016)
Property and equipment	10,069	( 2,920)
Interest	<u>( 161,296)</u>	<u>151,592</u>
Investment	<u>151,592</u>	367,538
Miscellaneous	<u>( 85,622)</u>	<u>( 1,546)</u>
	<u>175,670</u>	<u>357,056</u>
Net income	<u>\$ 59,041</u>	<u>\$ 706,879</u>

See notes to financial statements.

## CCI CONSTRUCTION COMPANY, INC.

## STATEMENTS OF SHAREHOLDER'S EQUITY

YEARS ENDED DECEMBER 31, 1998 AND 1997

	Common stock	Capital in excess of par	Retained earnings	Accumulated other comprehensive income (loss)	Total
Balance, December 31, 1996	\$ 39	\$ 9,758	\$ 4,768,011	\$ 42,867	\$ 4,820,675
Comprehensive income:					
Net income			706,879		706,879
Other comprehensive income:					
Unrealized holding gains arising during the period on marketable securities					
Add reclassification adjustment					
				187,348	187,348
				6,293	6,293
				193,641	193,641
Comprehensive income					
Distributions			( 266,401)		
Balance, December 31, 1997 (carried forward)	39	9,758	5,208,489	236,508	5,454,794

(continued)

## CCI CONSTRUCTION COMPANY, INC.

## STATEMENTS OF SHAREHOLDER'S EQUITY (CONTINUED)

YEARS ENDED DECEMBER 31, 1998 AND 1997

	Common stock	Capital in excess of par	Retained earnings	Accumulated other comprehensive income (loss)	Total
Balance, December 31, 1997 (brought forward)	\$ 39	\$ 9,758	\$ 5,208,489	\$ 236,508	\$ 5,454,794
Comprehensive loss:					
Net income			59,041		59,041
Other comprehensive income (loss):					
Unrealized holding gains arising during the period on marketable securities				3,469	3,469
Less reclassification adjustment				( 260,925)	( 260,925)
					( 257,456)
Comprehensive loss					( 198,415)
Distributions			( 12,696)		( 12,696)
Balance, December 31, 1998	<u>\$ 39</u>	<u>\$ 9,758</u>	<u>\$ 5,254,834</u>	<u>\$ ( 20,948)</u>	<u>\$ 5,243,683</u>

See notes to financial statements.

## CCI CONSTRUCTION COMPANY, INC.

## STATEMENTS OF CASH FLOWS

YEARS ENDED DECEMBER 31, 1998 AND 1997

	1998	1997
<b>Cash flows from operating activities:</b>		
Net income	\$ 59,041	\$ 706,879
Adjustments:		
Depreciation	793,014	156,504
(Gain) loss on sale of:		
Property and equipment	( 10,069)	2,920
Marketable securities	( 260,927)	6,293
(Increase) decrease in:		
Accounts receivable	1,203,478	( 5,516,738)
Costs and estimated earnings in excess of billings on uncompleted contracts	( 5,269,445)	( 692,618)
Prepaid expenses	( 164,047)	47,047
Shop inventory	( 37,522)	( 639)
Cash surrender value of officer's life insurance	( 55,453)	
Increase (decrease) in:		
Accounts payable	4,229,896	4,912,287
Accrued expenses	( 475,541)	530,442
Taxes withheld and accrued	33,578	47,166
Billings in excess of costs and estimated earnings on uncompleted contracts	( 393,716)	172,293
Total adjustments	( 406,754)	( 335,043)
Net cash provided by (used in) operating activities	( 347,713)	371,836
<b>Cash flows from investing activities:</b>		
Purchase of:		
Investments	( 161,670)	( 11,093,130)
Property and equipment	( 98,793)	( 560,929)
Repayment of note receivable	22,569	9,120
Proceeds from:		
Sale and maturities of investments	3,202,652	9,381,163
Sale of property and equipment	28,502	13,864
Net cash provided by (used in) investing activities	2,993,260	( 2,249,912)

(continued)

## CCI CONSTRUCTION COMPANY, INC.

## STATEMENTS OF CASH FLOWS (CONTINUED)

YEARS ENDED DECEMBER 31, 1998 AND 1997

	1998	1997
<b>Cash flows from financing activities:</b>		
Distributions to shareholder	\$( 12,696)	\$( 266,401)
Proceeds from issuance of notes payable and long-term debt	17,990,666	17,990,666
Repayment of notes payable and long-term debt	<u>( 19,321,988)</u>	<u>( 73,301)</u>
Net cash used in financing activities	<u>( 1,344,018)</u>	<u>( 339,702)</u>
Net increase (decrease) in cash and cash equivalents	1,301,529	( 2,217,778)
Cash and cash equivalents, beginning of year	<u>1,128,337</u>	<u>3,346,115</u>
Cash and cash equivalents, end of year	<u><u>\$ 2,429,866</u></u>	<u><u>\$ 1,128,337</u></u>
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid during the year for interest	\$ 161,296	\$ 1,707
<b>Noncash activities:</b>		
Net increase (decrease) in unrealized gain on marketable securities (see statements of shareholder's equity)	\$( 257,456)	\$ 193,641
Notes payable incurred for the acquisition of new equipment	\$ 6,018,196	\$ 889,082

See notes to financial statements.

**CCI CONSTRUCTION COMPANY, INC.**

**NOTES TO FINANCIAL STATEMENTS**

**YEARS ENDED DECEMBER 31, 1998 AND 1997**

**1. Summary of significant accounting policies:**

*Operations and operating cycle:*

The Company constructs and renovates commercial buildings primarily under fixed-price contracts in the eastern United States. The Company's receivables are concentrated among customers in this geographic area. The Company extends credit to its customers and generally requires no collateral.

The length of the Company's contracts varies but is typically between one to two years. In accordance with normal practice in the construction industry, the Company includes asset and liability accounts relating to construction contracts in current assets and liabilities even when such amounts are realizable or payable over a period in excess of one year.

*Use of estimates:*

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

*Revenue and cost recognition:*

Revenues from construction contracts are recognized on the percentage-of-completion method, measured by the percentage of direct cost incurred to date to estimated total direct cost for each contract. That method is used because management considers direct cost to be the best available measure of progress on the contracts. Because of inherent uncertainties in estimating costs, it is at least reasonably possible that the estimates used will change within the near term.

For purposes of determining percentage of completion estimates, contract costs include all direct material, labor and subcontracting costs and other direct costs related to contract performance. Indirect costs and general and administrative costs are charged to expense as incurred. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are first determined. Changes in job performance, job conditions and estimated profitability may result in revisions to costs and income and are recognized in the period in which the revisions are determined. An amount equal to contract costs attributable to claims is included in revenues when realization is probable and the amount can be reliably estimated.

**CCI CONSTRUCTION COMPANY, INC.**

**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**

**YEARS ENDED DECEMBER 31, 1998 AND 1997**

**1. Summary of significant accounting policies (continued):**

*Revenue and cost recognition (continued):*

The asset, "Costs and estimated earnings in excess of billings on uncompleted contracts," represents revenues recognized in excess of amounts billed. The liability, "Billings in excess of costs and estimated earnings on uncompleted contracts," represents billings in excess of revenues recognized.

*Cash and cash equivalents:*

For purposes of reporting cash flows, the Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

*Marketable securities:*

Marketable securities are reported at fair value, with unrealized gains and losses excluded from earnings and reported in a separate component of stockholder's equity. Fair value of the marketable securities is based on quoted market prices for those or similar securities or quotes from brokers. Gains and losses are determined using the specific identification method when securities are sold.

*Property and equipment:*

Property and equipment are stated at cost. Depreciation is provided using straight-line and accelerated methods over the estimated useful lives of the assets.

*Change in presentation:*

During 1998, the Company adopted Statement of Financial Accounting Standards No. 130, Reporting Comprehensive Income (SFAS No. 130). SFAS No. 130 requires the reporting of comprehensive income in addition to net income from operations. Comprehensive income is a more inclusive financial reporting methodology that includes disclosure of certain financial information that historically has not been recognized in the calculation of net income. SFAS No. 130 requires that the earlier year provided for comparative purposes be reclassified to conform to the statement.

## CCI CONSTRUCTION COMPANY, INC.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

YEARS ENDED DECEMBER 31, 1998 AND 1997

## 2. Cash and cash equivalents:

Cash and cash equivalents consist of the following:

	1998	1997
Cash	\$ 374,464	\$ 451
Money market funds	1,035	403,714
Repurchase agreements	<u>2,054,367</u>	<u>724,172</u>
	<u>\$ 2,429,866</u>	<u>\$ 1,128,337</u>

At December 31, 1998, the amount of deposits in cash held at the bank exceeded the Federal Deposit Insurance Corporation (FDIC) insurance by \$867,883. The money market funds and the repurchase agreements are not insured by the FDIC. The repurchase agreements sold by a bank were held in custody by this bank for the account of CCI Construction Company, Inc. and were invested in securities, which are not pledged as collateral.

## 3. Marketable securities:

The cost or amortized cost and the aggregate fair value of investments in the debt and equity securities at December 31, 1998 and 1997 are as follows:

	1998			
	Cost or amortized cost	Gross unrealized losses	Estimated fair value	
Available-for-sale securities, mutual funds	<u>\$ 652,429</u>	<u>\$ 20,948</u>	<u>\$ 631,481</u>	
	1997			
	Cost or amortized cost	Gross unrealized losses	Gross unrealized gains	Estimated fair value
Available-for-sale securities:				
Mutual funds	\$ 3,386,480	\$ 16,845	\$ 253,465	\$ 3,623,100
Obligations of states and political subdivisions	<u>80,004</u>	<u>112</u>	<u>—</u>	<u>79,892</u>
	<u>\$ 3,466,484</u>	<u>\$ 16,957</u>	<u>\$ 253,465</u>	<u>\$ 3,702,992</u>

## CCI CONSTRUCTION COMPANY, INC.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

YEARS ENDED DECEMBER 31, 1998 AND 1997

## 3. Marketable securities (continued):

	1998	1997
Cost of securities sold	\$ 2,941,725	\$ 9,387,456
Proceeds from sale	3,202,652	9,381,163
Gross realized gains	262,391	
Gross realized losses	1,464	6,293

## 4. Uncompleted contracts:

	1998	1997
Contract costs	\$ 42,225,606	\$ 27,920,734
Estimated earnings thereon	3,130,223	1,638,199
Less billings applicable thereto	45,355,829	29,558,933
	<u>39,302,311</u>	<u>29,168,576</u>
	<u><u>\$ 6,053,518</u></u>	<u><u>\$ 390,357</u></u>

## Included in the balance sheet as:

Costs and estimated earnings in excess of billings on uncompleted contracts	\$ 6,341,726	\$ 1,072,281
Billings in excess of costs and estimated earnings on uncompleted contracts	( 288,208)	( 681,924)
	<u><u>\$ 6,053,518</u></u>	<u><u>\$ 390,357</u></u>

## 5. Long-term debt:

Long-term debt consists of the following:

	1998
Obligations to various financing corporations due in current monthly installments totaling \$116,074, including interest at fixed rates approximating 7%. The notes, which are secured by the financed equipment, mature at various dates through August 2003.	\$ 3,964,581

## CCI CONSTRUCTION COMPANY, INC.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

YEARS ENDED DECEMBER 31, 1998 AND 1997

## 5. Long-term debt (continued):

	1998
Borrowings under a \$2,000,000 bank equipment line of credit are secured by the financed equipment. The agreement requires the December 31, 1998 balance to be repaid by December 2003 in monthly installments of \$30,238, including interest at a fixed rate of 6.7%.	<u>\$ 1,538,074</u>
Total long-term debt	5,502,655
Less current portion	<u>1,338,280</u>
Long-term debt portion	<u><u>\$ 4,164,375</u></u>

Aggregate principal payments due on long-term debt for the five years subsequent to December 31, 1998 are as follows:

1999	\$ 1,338,280
2000	1,415,424
2001	1,242,569
2002	961,559
2003	<u>544,823</u>
	<u><u>\$ 5,502,655</u></u>

## 6. Operating line of credit:

The Company has available a \$2,000,000 unsecured operating line of credit expiring on April 30, 1999 which requires interest at the bank's prime rate less 1/2%. The Company has no outstanding balance on the line at December 31, 1998.

## 7. Rent expense:

Various equipment and operating facilities are leased under noncancelable agreements. Total rent expense for all leases, including the related party lease discussed in Note 8, was \$1,689,666 and \$432,492 in 1998 and 1997, respectively.

The aggregate minimum rental commitments under all noncancelable leases at December 31, 1998 totaling \$28,639 are due in 1999.

**CCI CONSTRUCTION COMPANY, INC.**

**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**

**YEARS ENDED DECEMBER 31, 1998 AND 1997**

**8. Related party transactions:**

The Company is leasing an operating facility owned by its sole shareholder through March 31, 1999. The lease requires a monthly rental payment of \$4,037. Rent expense for this facility was \$48,444 and \$45,000 for 1998 and 1997, respectively.

Effective April 1, 1999, the Company will begin leasing an operating facility from Mechanicsburg Land Company, which is owned by the Company's sole shareholder, on a year-to-year basis. The initial lease, which expires December 31, 1999, requires monthly lease payments of \$14,329. Additionally, the Company entered into a contract for the construction of this facility with Mechanicsburg Land Company. Billings of \$339,203 were included in accounts receivable as of December 31, 1998.

During 1997, the Company incurred warranty insurance expense of \$825,000 with Pennsylvania Contractors Insurance Company, a corporation under common control. These costs are allocated as direct cost of contracts. There were no such costs in 1998.

During 1998, two insurance claims for contract losses incurred of \$900,000 were paid by Pennsylvania Contractors Insurance Company. These claims were covered under the terms of a remedial work period insurance policy.

In addition, Pennsylvania Contractors Insurance Company has guaranteed a claim of \$1,162,460 filed by the Company with a contract owner. If the owner fails to pay all or any part of this claim, the insurance company will pay the unpaid portion.

**9. Income taxes:**

No provision has been made for federal or state income taxes. Under provisions of the Internal Revenue Code and the Commonwealth of Pennsylvania Tax Act, the Company has elected not to be taxed as a corporation and the sole shareholder has consented to include the income in his individual return.

**10. Year 2000 issues:**

Like any other company, advances and changes in available technology can significantly affect the business and operations of the Company. A challenging problem exists as many computer systems worldwide do not have the capability of recognizing the year 2000 or years thereafter. No easy technology "quick fix" has yet been developed for this problem. While the Company has not requested verification of its year 2000 status from its auditors, it believes its computer systems will effectively deal with transactions in the year 2000 and beyond. This "Year 2000 Computer Problem" creates risk for the Company from unforeseen problems from third parties with whom the Company deals on financial transactions. Failures of the third parties' computer systems could have an impact to the Company's ability to conduct its business. The effect, if any, is unknown at this time.

## CCI CONSTRUCTION COMPANY, INC.

## COST OF CONTRACTS

YEARS ENDED DECEMBER 31, 1998 AND 1997

	1998	1997
Direct costs:		
Labor	\$ 6,457,982	\$ 2,886,054
Payroll taxes	702,129	335,936
Employee benefits	667,597	677,477
Equipment	111,207	41,373
Equipment rental	1,625,224	381,924
Materials	10,371,108	4,259,253
Other	1,745,316	1,679,129
Subcontractors	<u>27,802,562</u>	<u>22,099,706</u>
	<u>49,483,125</u>	<u>32,360,852</u>
Indirect costs:		
Salaries	528,517	86,208
Payroll taxes	61,224	11,217
Employee benefits	70,560	8,324
Blueprints	163	6
Depreciation	687,512	95,723
Dues and permits	5,340	710
Employee recruitment	44,621	7,151
Insurance	4,486	716
Office supplies and expense	53,393	8,112
Postage	2,187	253
Professional services	37,338	
Rent	40,731	8,636
Repairs and maintenance	12,655	3,648
Safety	2,732	2,157
Telephone	28,926	11,802
Temporary help	7,591	
Trade books and journals	1,892	556
Training and seminars	8,303	
Travel and entertainment	10,290	728
Utilities	10,397	1,413
Warehouse expenses	<u>43,399</u>	<u>9,261</u>
	<u>1,662,257</u>	<u>256,621</u>
Total cost of contracts	<u>\$ 51,145,382</u>	<u>\$ 32,617,473</u>

## CCI CONSTRUCTION COMPANY, INC.

## GENERAL AND ADMINISTRATIVE EXPENSES

YEARS ENDED DECEMBER 31, 1998 AND 1997

	1998	1997
Salaries:		
Officers	\$ 353,939	\$ 1,038,273
Office	480,807	410,023
Payroll taxes	60,247	73,399
Employee:		
Benefits	53,857	33,722
Recruitment	4,379	2,237
Advertising	3,067	1,038
Bad debt	22,569	
Bank charges	5,111	3,667
Blueprints	17,551	13,507
Company sponsored activities	2,373	
Contributions	14,220	1,098
Depreciation	105,502	3,030
Dues	60,781	
Insurance	16,335	8,058
Licenses and taxes	12,399	12,162
Miscellaneous	44,559	44,270
Office supplies	265	
Postage	50,617	18,875
Professional services	8,967	7,914
Rent	109,543	95,337
Repairs and maintenance	23,711	33,744
Telephone	6,555	7,689
Temporary help	19,164	31,328
Trade books and journals	1,719	
Training and seminars	24,222	22,995
Travel and entertainment	5,938	1,086
Utilities	30,687	5,948
	<u>27,662</u>	<u>23,934</u>
Total general and administrative expenses	<u>\$ 1,505,700</u>	<u>\$ 1,954,380</u>

## CCI CONSTRUCTION COMPANY, INC.

## EARNINGS FROM CONTRACTS

YEAR ENDED DECEMBER 31, 1998

	Revenues earned	Cost of revenues earned	Gross profit (loss)
Contracts completed during the year	\$ 13,541,950	\$ 13,969,824 (a)	\$( 427,874)
Contracts-in-progress at year-end	38,721,607	35,389,315 (a)	3,332,292
Construction management contracts	83,777	20,444 (a)	63,333
Time and material jobs	<u>187,119</u>	<u>103,542</u> (a)	<u>83,577</u>
	52,534,453	49,483,125	3,051,328
Indirect costs		<u>1,662,257</u>	<u>( 1,662,257)</u>
	<u><u>\$ 52,534,453</u></u>	<u><u>\$ 51,145,382</u></u>	<u><u>\$ 1,389,071</u></u>

(a) Excludes indirect costs not allocated to specific jobs.

CCI CONSTRUCTION COMPANY, INC.  
COMPLETED CONTRACTS

YEAR ENDED DECEMBER 31, 1998

Job number	Contract	Contract totals			Before January 1, 1998			During the year ended December 31, 1998		
		Revenues earned	Cost of revenues earned	Gross profit (loss) before Indirect costs	Revenues earned	Cost of revenues earned	Gross profit before Indirect costs	Revenues earned	Cost of revenues earned	Gross profit (loss) before Indirect costs
426	U.E.P.H. Complex	\$ 19,272,256	\$ 17,479,889	\$ 1,792,367	\$ 17,763,732	\$ 15,878,479	\$ 1,885,253	\$ 1,508,524	\$ 1,601,410	\$ ( 92,886)
445	Houtzdale Prison	10,937,202	11,397,234	( 460,032)	4,086,420	4,160,371	( 82,951)	6,850,782	7,227,863	( 377,081)
448	Outlook Creekview	4,800,644	4,655,443	145,201	554,419	521,254	33,165	4,246,225	4,134,189	112,036
449	U.E.P.H. Headquarters	1,456,558	1,521,701	( 65,143)	520,139	515,339	4,800	936,419	1,006,362	( 69,843)
		<u>\$ 36,466,660</u>	<u>\$ 35,054,267</u>	<u>\$ 1,412,393</u>	<u>\$ 22,924,710</u>	<u>\$ 21,084,443</u>	<u>\$ 1,840,267</u>	<u>\$ 13,541,950</u>	<u>\$ 13,969,824</u>	<u>\$ (427,874)</u>

## CCI CONSTRUCTION COMPANY, INC.

## CONTRACTS-IN-PROGRESS

DECEMBER 31, 1998

Job number	Project	Total contract price	Inception to December 31, 1998			December 31, 1998			Year ended December 31, 1998		
			Estimated total contract costs	Estimated total direct contract costs	Contract costs to December 31, 1998	Contract earnings to December 31, 1998 before indirect costs	Indirect costs	Billing to December 31, 1998	Estimated earnings in excess of estimated earnings	Costs and estimated earnings in excess of estimated earnings	Revenues earned
439	Mahanoy Prison	\$ 11,698,418	\$ 10,687,972	\$ 1,031,446	\$ 10,666,808	\$ 1,031,333		\$ 10,481,740	\$ 1,216,401	\$ 5,623,543	\$ 4,357,586
450	Johnstown	3,268,600	3,245,082	21,518	1,172,766	7,776		730,724	449,818	1,064,028	1,057,305
451	Lord Fairfax	7,301,111	( 218,127)	6,859,884	( 218,127)	6,570,468			\$ 128,611	5,998,746	6,248,376
454	Albermarle Prison	14,524,840	12,875,751	1,649,089	4,819,694	617,292	4,719,426	717,560		5,436,886	( 249,630)
455	Perry Point	12,937,341	11,463,840	1,473,561	4,734,482	608,547	3,108,536	2,234,503		4,819,694	617,292
456	Outlook - Hilliard	5,380,745	4,801,310	579,435	2,715,193	327,677	2,732,602	310,268		5,341,039	4,734,492
457	Camp Hill	1,495,628	1,372,273	123,356	547,295	49,197	617,798		21,307	3,042,870	2,715,193
458	Scott Air Force Base	14,870,150	13,929,350	940,800	6,026,515	407,040	6,571,905		138,290	586,492	327,677
460	Gem Plasma Center	15,565,000	14,667,024	897,976	2,905,895	177,917	2,252,156	831,756		6,433,615	6,026,575
461	Outlook - Chesterfield	3,842,372	3,629,824	212,548	1,518,251	88,902	1,097,444	509,709		3,083,912	2,905,895
462	Outlook - Westerville	5,589,800	5,218,140	371,760	458,553	32,669	418,511	71,711		1,607,153	177,917
										1,518,251	407,040
										88,902	32,669
											32,669
											\$ 3,332,792
											\$ 35,389,315
											\$ 89,171,677
											\$ 86,254,979

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## facsimile transmittal

To: Eileen K. Fax: 507-3953  
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Urgent  For Review  Please Comment  Please Reply  Please Recycle

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1st fax 10 pgs (partial)  
2nd fax 13 pgs (complete)

13-00-1909

CCI CONSTRUCTION CO., INC.  
BALANCE SHEETPAGE 1  
02-14-2000 14:07

## 1000 ASSETS

## 1002 \*CURRENT ASSETS\*

1040 CASH &amp; INVESTMENTS ( 594,857.26)

1049 TOTAL CASH &amp; INVESTMENTS ( 594,857.26)

## 1050 ACCOUNTS RECEIVABLE:

1100	ACCOUNTS RECEIVABLE	12,230,914.30
1110	A/R RETAINAGE	4,903,477.69
1140	EMPLOYEE RECEIVABLE	1,973.68
1141	ACCOUNTS RECEIVABLE-ORTENZIO	184.83
1156	DUE FROM AFFILIATES	2,197.66

1157 TOTAL ACCOUNTS RECEIVABLE 17,138,748.16

1167 INVENTORY: 54,384.97

1168 INVENTORY 54,384.97

1192 OTHER CURRENT ASSETS 38,354.36

1193 COSTS &amp; EARNINGS &gt; BILLINGS 4,158,685.00

1195 TOTAL CURRENT ASSETS 20,795,315.23

## 1196 \*LONG TERM ASSETS\*

1200	OFFICER LIFE INSURANCE POLICY	62,094.00
1205	NOTE RECEIVABLE - VEHICLE	24,621.53

## 1300 \*FIXED ASSETS\*

1301	OFFICE FURNITURE AND FIXTURES	1,040,346.51
1302	MACHINERY AND EQUIPMENT	1,181,976.51
1303	AUTOS AND TRUCKS	1,153,516.12
1304	SMALL TOOLS	317,193.27
1305	SHOP/MECHANICAL EQUIPMENT	347,101.45

1390 TOTAL FIXED ASSETS 4,126,849.39

## 1400 ACCUMULATED DEPRECIATION/AMORT:

1401	ACCUM DEPR - FURNITURE & FIXTURE	( 716,766.60)
1402	ACCUM DEPR - MACH & EQUIP	( 396,493.16)
1403	ACCUM DEPR - AUTO & TRUCK	( 341,643.25)
1404	ACCUM DEPR - SMALL TOOLS	( 162,519.74)
1405	ACCUM DEPR - SHOP/MECHANICAL	( 160,079.00)

1488 TOTAL ACCUM DEPR/AMORT ( 1,777,501.75)

1490 NET FIXED ASSETS 2,349,347.64

1999 TOTAL ASSETS 23,144,662.87

EXHIBIT

9  
2/12/01/ tmmt

L-R08  
DATE: 13-00-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEETPAGE  
02-14-2000 14:00

2000	L I A B I L I T I E S	
2005	CURRENT LIABILITIES	
2099	ACCOUNTS PAYABLE:	
2100	ACCOUNTS PAYABLE	2,951,006.31
2101	SUBCONTRACTOR A/P	6,130,086.78
2102	A/P RETAINAGE	3,764,423.64
2120	TOTAL ACCOUNTS PAYABLE	12,845,516.73
2295	ACCRUED PAYROLL TAXES	202,668.00
2415	OTHER CURRENT LIABILITIES	320,629.67
2431	NOTE PAYABLE-ALLFIRST LINE OF	1,200,000.00
2450	NOTES PAYABLE-CURRENT	3,782,351.64
2480	BILLINGS > COSTS & EARNINGS	4,402,180.00
2490	TOTAL CURRENT LIABILITIES	22,753,346.04
2870	NOTES PAYABLE-LONG TERM	1,387,079.70
2890	TOTAL L I A B I L I T I E S	24,140,425.74
3000	E Q U I T Y	
3110	CAPITAL SURPLUS	9,797.00
3200	RETAINED EARNINGS	286,513.75
3210	RETAINED EARNINGS SUB-S CORP.	4,343,092.86
3275	OTHER ACCUMULATED ADJUSTMENTS	480,647.00
3300	CURRENT YEAR EARNINGS	( 5,115,813.48)
3800	TOTAL E Q U I T Y	( 995,762.87)
3900	TOTAL LIABILITIES AND EQUITY	23,144,662.87

L-208  
ATE: 13-00-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 1PAGE 3  
02-14-2000 14:07

1003	CASH:	
1010	CASH - DAUPHIN CHECKING	( 573,734.41)
1011	CASH - DAUPHIN PAYROLL	( 55,522.85)
1013	CASH - FLEX REIMBURSEMENT ACCT	100.00
1016	INVESTMENT IN EPIC	3,000.00
1017	INVESTMENT IN RAFFLES	31,000.00
1020	PETTY CASH	300.00
1040	CASH & INVESTMENTS	( 594,857.26)

L-R08  
ATE: 13-00-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 2PAGE  
02-14-2000 14:

1158	INVENTORY:	
1160	SHEET METAL SHOP INVENTORY	54,384.97
<hr/>		
1167	INVENTORY:	54,384.97
<hr/>		

L-R08  
ATE: 13-90-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 3PAGE  
02-14-2000 14:0

1150	DUE FROM AFFILIATES	
1153	DUE TO/FROM CUSTODIAL	376.20
1152	DUE TO/FROM RELIANCE	( 45.64)
1155	DUE TO/FROM MECH LAND CO	1,867.10
1156	DUE FROM AFFILIATES	2,197.66

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L-R08

ATE: 13-00-1999

CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 6PAGE 6  
02-14-2000 14:07

1169	CURRENT ASSETS:	
1175	PREPAID RENT	2,015.28
1176	SECURITY DEPOSIT - CALIFORNIA	2,015.28
1185	PREPAID TAXES	25,100.00
1190	PREPAID GENERAL EXPENSES	9,223.80
1192	OTHER CURRENT ASSETS	40,552.02

L-R08  
ATE: 13-00-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 50PAGE  
02-14-2000 14:07

2190	ACCRUED PAYROLL TAXES:	
2200	ACCRUED FED W/H	57,394.00
2210	ACCRUED FICA W/H	53,592.89
2220	ACCRUED FUTA	4,877.66
2222	ACCRUED SUTA - CAL	196.51
2223	ACCRUED STATE W/H - CAL	6,607.92
2225	ACCRUED STATE W/H - PA	2,570.83
2226	ACCRUED LOCAL W/H - PA	4,817.40
2227	ACCRUED OPT W/H - PA	1,110.00
2228	ACCRUED SUTA - PA	21,787.09
2232	ACCRUED STATE W/H - DEL	36.47
2241	ACCRUED SUTA - W VA.	4,911.32
2243	ACCRUED STATE W/H - WEST VA	5,547.10
2248	ACCRUED SUTA - MD	3,071.83
2249	ACCRUED STATE W/H - MD	9,728.80
2250	ACCRUED SUTA - MO	161.13
2251	ACCRUED STATE W/H - MO	1,341.00
2256	ACCRUED SUTA - OHIO	520.00
2258	ACCRUED STATE W/H - OHIO	485.40
2275	ACCRUED STATE W/H - VA	14,773.69
2276	ACCRUED SUTA - VA	3,282.40
2281	ACCRUED STATE W/H - ILLINOIS	3,130.65
2282	ACCRUED SUTA - IL	2,723.91
2295	ACCRUED PAYROLL TAXES	202,668.00

L-R08  
ATE: 13-00-1999CCI CONSTRUCTION CO., INC.  
BALANCE SHEET - SCHEDULE 60PAGE 8  
02-14-2000 14:07

2296	OTHER CURRENT LIABILITIES	
2301	ACCRUED WORKERS COMP	190,594.18
2307	ACCRUED CAFETERIA DEDUCTIONS	( 40,624.70)
2310	ACCRUED PAYROLL	130,079.77
2311	ACCRUED UNION FRINGE PAYABLE	186.85
2313	ACCRUED FRINGE FUND ACCOUNT	6,079.45
2315	ACCRUED 401(K) PLAN	2,414.12
2329	ACCRUED ACCOUNTING FEES	31,900.00
2415	OTHER CURRENT LIABILITIES	320,629.67

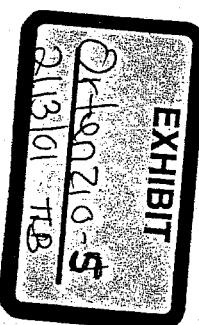
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P.07

CCI CONSTRUCTION CO., INC.  
CASH FLOW PROJECTIONS

2/1/00 THRU 3/31/01 (Completion date of last job)



	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	REMAINING	TOTAL
Beginning Cash Balance	(6,205,366)	(9,063,691)	(9,199,345)	(9,389,090)	(9,589,773)	(9,973,228)	(9,873,456)	
Revenue	5,593,391	6,162,630	7,455,167	7,762,395	7,921,756	6,990,371	28,835,033	70,740,743
Direct Costs	(8,203,659)	(6,039,755)	(7,420,683)	(7,769,575)	(8,074,547)	(6,686,415)	(23,339,629)	(67,531,263)
Net Cash from Jobs	(2,509,268)	122,875	34,484	12,820	(152,791)	303,956	5,495,404	3,207,480
Overhead	(229,066)	(238,539)	(204,238)	(193,513)	(210,674)	(183,694)	(1,312,620)	(2,572,344)
Depreciation	50,500	50,500	50,500	50,500	50,500	50,000	350,000	652,500
Principal Payments	(39,798)	(40,027)	(40,259)	(40,491)	(40,725)	(40,960)	(336,311)	(578,571) **
Interest Expense on Equip Loans	(10,693)	(10,463)	(10,232)	(9,999)	(9,765)	(9,530)	(67,611)	(128,293)
Interest Expense on Line of Credit*	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(160,000)	(280,000)
Net Cash Flow with Equipment	(2,858,325)	(135,654)	(189,745)	(200,653)	(383,455)	99,772	3,968,862	300,772
Ending Cash Balance w/ Equip	(9,063,691)	(9,199,345)	(9,389,090)	(9,589,773)	(9,973,228)	(9,873,456)	(5,904,594)	(62,993,174)
Available Line of Credit	5,200,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000		
Cash shortage	(3,863,691)	(5,199,345)	(5,389,090)	(5,589,773)	(5,973,228)	(5,873,456)	(1,904,594)	

\*\*Principal pmnts are thru 3/31/01. At that time, the remaining principal balance will be \$1,259,524.

Also, the overhead, depreciation, and interest expense are projected through 3/31/01. All jobs are projected through the end, which is projected to be 3/31/01.

\*Interest expense on the line of credit was projected for \$3,00,000 at 8%.

Interest expense on equipment is actual based on amortization schedules. It does not include any decrease for vehicles that will be sold

CCI CONSTRUCTION CO., INC.  
REMAINING BILLINGS AND COSTS ON JOBS

#	JOB NAME	AMOUNT	1/31/00	BILL	TO BE PD	REMAINING	AMOUNT IN	G	TOTAL PRO- JECTED COST	H	I	H-I=J	F	J=K	F-J=K	H-I=J	REMAINING	COSTS	DIFFERENCE
										C	D	E	F						
454 ALBEMARLE		14,582,917	10,924,799			3,650,118	600,551	15,544,471	13,044,430		2,500,041					1,158,077			
448 CREEKVIEW		4,856,021	4,856,021			0	0	4,877,876	4,677,876		0					0			
456 HILLIARD		5,600,748	5,318,813			281,935	279,938	5,081,715	5,090,697		-8,982					290,917			
461 CHESTERFIELD		4,115,065	3,776,419			338,646	203,326	4,061,583	3,990,886		70,567					267,979			
462 WESTERVILLE		5,767,985	3,300,307			2,467,688	394,184	5,679,439	3,976,072		1,703,367					764,321			
476 SUMMERDALE		1,942,371	983,147			859,224	296,615	1,867,273	1,868,258		-885					960,209			
470 PERRY CTY		4,340,802	3,795,985			553,817	0	4,504,792	4,113,956		390,836					162,981			
450 JOHNSTOWN		3,732,569	3,631,674			100,895	89,820	3,705,315	3,707,462		-2,147					103,042			
465 JAMES RIVER		7,242,081	3,533,593			3,708,488	222,010	7,434,677	4,010,947		3,423,730					284,758			
467 EPW III		4,060,421	3,758,179			304,242	203,371	3,770,939	3,530,068		248,851					55,391			
478 EPW 1ST FLOOR		204,290	195,459			8,831	0	184,270	205,308		-11,038					10,889			
475 SR22 CAMBRIA		868,337	865,540			2,797	0	874,933	865,339		9,597					-6,800			
455 PERRY PT		12,999,654	11,438,742			1,560,912	300,000	12,013,954	11,537,698		476,256					1,084,658			
453 PA TURNPIKE		226,834	226,834			0	0	78,704	78,704		0					0			
473 KOST ROAD		1,767,668	1,442,347			325,341	0	1,688,842	1,289,936		308,906					-41,585			
460 GERMPLASM		16,155,581	9,057,829			7,097,752	998,109	16,022,012	10,265,744		5,656,266					1,441,484			
477 COOL & COLD		12,319,099	880,888			11,438,211	0	11,692,515	1,572,220		10,120,285					1,317,916			
480 AQUA WATERLINE		191,083	0			191,083	0	165,915	1,982		163,933					27,150			
459 SCOTT AFB		15,081,490	14,060,168			221,322	472,580	18,979,463	18,907,941		71,542					149,760			
468 VCU		22,072,607	5,925,956			16,146,851	472,816	20,864,978	8,680,944		12,204,034					3,942,517			
451 LORD FAIRFAX		7,230,740	6,859,169			371,571	361,008	7,984,882	7,991,224		-6,342					377,913			
439 MAHANOY		11,730,187	11,729,437			750	750	10,704,600	10,704,600		0					750			
458 PA TURN CONST		22,564,223	1,561,754			21,902,469	111,516	21,159,451	2,779,055		18,360,396					2,842,073			
TOTAL		179,661,803	108,921,060			70,740,743	5,016,594	178,618,592	122,881,367		55,737,225					15,003,518			

## Cash Flow Revenue Projections by Job by Month

P.09

JOB #	JOB NAME	TO BE PAID	REMAINING							
			FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	REMAINING	
454 ALBEMARLE		3,658,118	369,000	400,000	600,000	500,000	600,000	300,000	889,118	3,658,118
448 CREEKVIEW		0	0	0	0	0	0	0	0	0
458 HILLIARD		281,935	0	0	0	0	281,935	0	0	281,935
461 CHESTERFIELD		338,646	86,780	0	13,220	35,320	0	203,326	0	338,646
462 WESTERVILLE		2,467,688	247,354	325,000	525,000	525,000	300,000	225,334	320,000	2,467,688
476 SUMMERDALE		959,224	638,911	23,697	0	0	296,616	0	0	959,224
470 PERRY CTY		553,817	0	0	0	0	220,000	220,000	113,817	553,817
450 JOHNSTOWN		100,895	0	0	100,895	0	0	0	0	100,895
465 JAMES RIVER		3,708,488	330,948	451,352	700,000	700,000	450,000	300,000	776,188	3,708,488
467 EPW II		304,242	107,875	196,367	0	0	0	0	0	304,242
478 EPW 1ST FLOOR		8,831	8,831	0	0	0	0	0	0	8,831
475 SR22 CAMBRIA		2,797	0	0	0	0	0	0	0	2,797
455 PERRY PT		1,560,912	400,000	400,000	460,912	0	300,000	0	0	1,560,912
453 PA TURNPIKE		0	0	0	0	0	0	0	0	0
473 KOST ROAD		325,341	0	2,370	2,370	2,370	2,370	2,370	313,491	325,341
480 GERMPLASM		7,097,752	850,000	850,000	1,000,000	1,100,000	1,100,000	1,100,000	1,097,752	7,097,752
477 COOL & COLD		11,438,211	900,000	1,630,033	1,100,000	1,400,000	1,300,000	1,200,000	3,908,178	11,438,211
480 AQUA WATERLINE		191,083	0	0	0	0	0	0	191,083	191,083
459 SCOTT AFB		221,322	0	0	0	0	0	0	221,322	221,322
466 VCU		16,146,651	1,167,539	1,200,000	1,500,000	1,600,000	1,600,000	1,800,000	6,979,112	16,146,651
451 LORD FAIRFAX		371,571	0	0	0	185,000	0	186,571	0	371,571
439 MAHANOY		750	750	0	0	0	0	0	0	750
458 PA TURN CONST		21,002,469	482,606	683,811	1,452,770	1,452,770	1,452,770	1,452,770	14,024,972	21,002,469
TOTAL		70,740,743	5,593,391	6,162,630	7,455,167	7,782,395	7,921,756	6,990,371	28,835,033	70,740,743

Feb-18-00 07:11P JOHN MORTENZIO

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P.10

## Cash Flow Cost Projections by Job by Month

JOB #	JOB NAME	REMAINING COSTS	APR AMT AT 12/1/00	FEBRUARY			MARCH			APRIL			MAY			JUNE			JULY			REMAINING	
				SUBS	ALL OTHER	SUBS	ALL OTHER	SUBS	ALL OTHER	TOTAL	TOTAL	(C-9)	REMAINING COSTS										
OPENED AND OPEN JOBS																							
454 ALBEMARLE		2,500,041	861,147	(424,313)	0	200,000	200,000	300,000	300,000	250,000	250,000	300,000	300,000	250,000	250,000	300,000	300,000	521,354	2,500,041	0	0		
448 CREEKVIEW		0	27,683	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
456 HILLWOOD	(8,062)	275,385	(234,012)	0	0	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	(10,942)
481 CHESTERFIELD	70,687	421,655	(206,124)	0	50,000	0	20,687	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	70,687
482 WESTERVILLE	1,703,307	802,302	(213,861)	80,000	200,000	125,000	325,000	200,000	325,000	200,000	150,000	100,000	88,767	111,281	111,281	0	0	0	0	0	0	0	1,703,307
478 SUMMERSDALE	(965)	282,117	(32,887)	0	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10,000
470 PERRY CITY	360,618	119,843	0	30,000	0	25,000	0	100,000	0	100,000	0	0	0	0	0	0	0	0	0	0	0	0	(10,945)
450 JOHNSTOWN	(2,147)	284,900	(196,501)	0	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10,000
485 JAMES RIVER	3,473,730	556,129	(158,872)	201,000	225,000	226,000	450,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	583,607	3,473,730	0	0		
487 EPW H	248,851	582,159	(221,474)	50,000	150,000	48,151	221,474	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	248,851
478 EPW 1ST FLOOR	(11,023)	6,568	(6,551)	0	15,551	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10,000
475 SRZ2 CAMBRIA	9,597	1,431	0	5,000	0	4,587	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	(110,536)
453 PERRY PT	478,258	878,833	(650,648)	0	218,258	0	200,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9,507
453 PA TURNPIKE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	478,258
473 KOST ROAD	386,906	87,505	(43,501)	0	2,500	0	2,000	0	2,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
460 GERMASASHA	5,554,266	1,035,749	(413,063)	50,000	480,000	400,000	500,000	400,000	500,000	400,000	500,000	400,000	500,000	400,000	500,000	400,000	500,000	400,000	500,000	400,000	500,000	0	
477 COOK & COLD	10,120,296	259,318	(69,661)	100,000	1,300,000	300,000	800,000	200,000	1,200,000	200,000	1,000,000	150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	5,656,706	
480 AQUA WATERLINE	183,933	1,974	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10,120,296
458 SCOTT AFB	71,542	334,863	(105,083)	0	25,000	25,000	0	11,542	0	0	0	0	0	0	0	0	0	0	0	0	0	0	183,833
486 VCU	12,204,034	2,910,498	(465,741)	75,000	1,000,000	100,000	1,325,000	100,000	1,100,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	71,542	
451 LORO FARFAX	(8,342)	2,10,539	(273,024)	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
439 MAMMOTH	0	86,694	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	(18,342)
458 PA TURN CONSTR	18,360,396	1,199,570	(180,965)	20,000	825,000	25,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	1,400,000	40,000	
TOTAL	55,727,225	11,716,544	(1,825,419)	31,1,925	4,540,307	1,499,444	5,844,141	1,776,542	5,891,100	1,678,475	6,536,860	1,537,907	6,660,415	23,339,729	55,818,718	(73,404)							

**CCI CONSTRUCTION CO., INC.**  
**GROSS PROFIT COMPARISONS**  
**DECEMBER 1999**

JOB NUMBER	DESCRIPTION	DECEMBER CONTRACT AMOUNT	ORIGINAL PROJECTED GP AMOUNT	DECEMBER 98		AUGUST 98		SEPTEMBER		OCTOBER		NOVEMBER		DECEMBER		
				PROJECTED GP	PROJECTED GP	GROSS PROFIT %										
45400 ALBEMARLE	AQUA WATER LINES	14,582,917	1,600,000	1,649,089	11.35%	448,758	3.08%	170,846	1.10%	64,591	0.44%	(309,776)	-2%	(198,1554)	-7%	
48000 COOK & COLD AQUA	CCIC-CAMP-FALL	12,319,098	0	123,368	8.25%	42,111	2.82%	45,837	3.08%	50,190	3.36%	50,181	3%	25,168	13%	
47600 COOK & COLD AQUA	EPW I	204,280	649,194	461,783	3.79%	571,957	4.69%	571,957	4.69%	571,957	5%	49,364	5%	62,584	5%	
46700 EPW II	JAMES RIVER	4,050,421	28,901	28,901	2.60%	12,70%	10,631	5.43%	12,582	8.05%	11,004	5%	10,020	5%		
48000 GERMPLASM	HOULTSDALE	16,155,581	185,897	N/A	N/A	276,882	7.40%	278,881	6.93%	304,559	7.60%	303,077	8%	281,487	1%	
44500 JOHNSTOWN	JOHNSTOWN	7,242,081	930,000	893,976	5.77%	852,429	4.17%	563,358	3.60%	478,482	2.98%	435,227	3%	233,569	3%	
45100 LORD FAIRFAX	LORD FAIRFAX	4,115,045	250,000	(218,127)	3.08%	(154,608)	4.81%	(421,002)	5.68%	(463,230)	6.23%	(501,008)	7%	(174,142)	1%	
43900 MAHANOY PHISO	MAHANOY PHISO	5,600,148	150,640	1,008,980	9.11%	1,065,027	9.08%	1,027,063	6.76%	1,027,044	8.76%	1,070,486	9%	1,025,587	9%	
46100 OUTLOOK-Chestfield	OUTLOOK-Chestfield	5,767,395	286,000	212,548	5.53%	183,044	4.63%	184,031	4.70%	225,484	5.52%	222,105	5%	53,512	2%	
44800 OUTLOOK-Greenv	OUTLOOK-Greenv	22,564,723	133,712	145,201	3.02%	158,731	3.27%	178,939	3.68%	174,501	3.59%	177,609	4%	178,145	6%	
45800 OUTLOOK-Hard	OUTLOOK-Hard	1,767,088	350,000	579,435	10.77%	593,809	10.68%	577,325	10.31%	542,475	9.69%	521,422	9%	519,033	6%	
46200 OUTLOOK-Westerville	OUTLOOK-Westerville	12,999,654	350,000	371,760	6.85%	331,329	5.93%	348,725	6.24%	348,679	6.09%	348,679	6%	88,556	8%	
45800 PA TURNPIKE	PA TURNPIKE	4,349,602	1,480,000	N/A	N/A	1,480,000	7.40%	1,425,261	6.30%	1,424,832	6.31%	1,424,832	6%	1,424,772	-4%	
47300 PA TURNPIKE KOST	PA TURNPIKE KOST	868,337	100,000	N/A	N/A	103,875	5.89%	103,803	5.87%	100,847	5.71%	100,847	6%	100,846	-1%	
45500 PERRY POINT	PERRY POINT	19,777,015	765,180	1,473,501	11.39%	1,515,700	11.41%	1,508,715	11.35%	1,464,661	11.01%	1,424,338	11%	885,700	4%	
47000 SH W PERRY CNTY	SH W PERRY CNTY	1,942,371	536,973	N/A	N/A	577,968	14.01%	577,968	14.01%	577,967	14.01%	498,443	12%	(154,980)	4%	
47500 SR 22 CAMBRIA CNTY	SR 22 CAMBRIA CNTY	27,012,807	121,640	57,038	6.83%	36,659	4.39%	158,958	17.81%	124,580	14%	16,600	5%			
45900 SCOTT A FRASE	SCOTT A FRASE	19,777,015	821,887	840,800	6.33%	897,402	4.84%	897,402	4.76%	821,108	4.36%	919,994	5%	792,532	0%	
42800 SUMMERSDALE	SUMMERSDALE	0	152,147	213,782	12.56%	213,782	12.66%	213,782	12.66%	276,882	13%	75,096	0%			
42800 U.E.P.H.	U.E.P.H.	0	1,640,000	1,792,367	9.30%	1,597,341	8.78%	1,680,215	8.72%	1,679,983	8.72%	1,679,955	9%	1,679,144	0%	
44900 UEPHC-HOTRS	UEPHC-HOTRS	1,456,558	83,260	(65,143)	4.47%	N/A	N/A									
48800 VCU LIFE SCENCE	VCU LIFE SCENCE	0	1,288,815	N/A	N/A	1,215,405	5.55%	1,210,146	5.52%	1,213,101	5.53%	1,203,310	5%	1,207,629	0%	
			188,767,859			8,533,235		11,755,237		11,070,370		10,402,548		7,314,112		

## DISTRIBUTION

Shane Miller  
 Doug McAninch  
 John Oritenzo  
 Sean Phillips

J-16103

DEC JOB GP %S

R 42 PMS

JOHN M. ORTENZIO

DECEMBER 31, 1998

Δ π EXHIBIT 18  
Deponent Ortenzio  
Date 2/1/02 Rptr. d/c  
WWW.DEPOBOOK.COM



November 9, 1999

Mr. Craig Schwartz  
Vice President  
Allfirst Bank  
3045 Market Street  
Camp Hill, PA 17011

RE: Personal Financial Statement

Dear Craig:

Enclosed is my 1998 personal financial statement. This is sent to you as it relates to the commercial loan note dated November 8, 1999.

Sincerely,

A handwritten signature in black ink, appearing to read 'John M. Ortenzio'.

John M. Ortenzio

Enclosure

CCI CONSTRUCTION CO. INC.

Mailing Address  
P.O. Box 8800  
Camp Hill, PA 17011-8800  
Telephone (717) 909-4501 (4224)

Street Address  
2500 Old Gettysburg Road  
Camp Hill, PA 17011-7307  
Fax (717) 909-4220

***JOHN M. ORTENZIO***

***DECEMBER 31, 1998***



John M. Ortenzio  
Mechanicsburg, Pennsylvania

We have compiled the statement of financial condition of John M. Ortenzio as of December 31, 1998 in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The statement of financial condition is intended to present the assets of John M. Ortenzio at estimated current values and his liabilities at estimated current amounts.

A compilation is limited to presenting in the form of a financial statement information that is the representation of the individual whose financial statement is presented. We have not audited or reviewed the statement of financial condition and, accordingly, do not express an opinion or other form of assurance on it.

John M. Ortenzio has elected to omit substantially all of the disclosures required by generally accepted accounting principles. If the omitted disclosures were included with the statement of financial condition, they might influence the users' conclusions about the financial condition of John M. Ortenzio. Accordingly, this statement of financial condition is not designed for those who are not informed about these matters.

*Brown, Schulz, Sheridan & Fritz*

June 14, 1999

CERTIFIED PUBLIC ACCOUNTANTS  
AND  
BUSINESS ADVISORS

A PROFESSIONAL CORPORATION

1011 MUMMA ROAD

WORMLEYSBURG, PA 17043

PO BOX 67865  
HARRISBURG, PA 17106-8665  
717-761-7171  
PA: 800-294-7360  
FAX: 717-737-6655

1725 OREGON PIKE  
LANCASTER, PA 17601  
717-560-8375  
PA: 800-294-7360  
FAX: 717-560-8712

WEBSITE: WWW.BSSF.COM

JOHN M. ORTENZIO

## STATEMENT OF FINANCIAL CONDITION

DECEMBER 31, 1998  
(See accountants' compilation report)

## ASSETS

Cash		\$ 308,100
Investments:		
Marketable securities		1,157,200
Mutual funds		1,910,300
Salary savings plan		156,600
Partnerships:		
Investment		811,400
Real estate		1,125,600
Other		137,900
Corporations:		
Asset management		19,100
Construction		5,257,600
Finance		105,000
Insurance		180,000
Real estate ownership		3,404,600
Loans receivable:		
Real estate investment partnerships		74,500
Corporations		2,483,600
Corporate office building		440,000
Personal effects		50,000
Residences		855,000
Federal and state income tax refunds		210,300
		<u>\$ 18,686,800</u>

## LIABILITIES, ESTIMATED INCOME TAXES AND NET WORTH

Liabilities:		
Divorce settlement agreement		\$ 1,565,200
Loan payable, individual		502,400
Mortgage payable		230,700
State and local income taxes payable		25,500
Estimated income taxes on the differences between estimated current values of assets and their tax bases		536,900
Net worth		<u>15,826,100</u>
		<u>\$ 18,686,800</u>

LAW OFFICES

WEBHARDT & SMITH LLP

NINTH FLOOR

THE WORLD TRADE CENTER  
BALTIMORE, MARYLAND 21202-3064

BALTIMORE: (410) 752-5830  
WASHINGTON: (301) 470-7468

FACSIMILE  
(410) 385-5119

WRITER'S DIRECT DIAL NUMBER:

(410) 385-5100  
Writer's E-Mail Address:  
lgebh@gebsmith.com

Refer To File No. 18610

February 24, 2000

*Via Facsimile and Federal Express*

4027 1282 2404

CCI CONSTRUCTION CO., INC.  
2500 Old Gettysburg Road  
Camp Hill, Pennsylvania 17011-7307

Attn: John M. Ortenzio, President

RE: \$4,000,000 Unsecured Revolving Line Of Credit and  
\$2,000,000 Secured Equipment Purchase Line of Credit  
Extended By Allfirst Bank To CCI Construction Co., Inc.

Dear Mr. Ortenzio:

This firm represents Allfirst Bank ("Lender"), which has extended to CCI Construction Co., Inc. ("Borrower") (a) a revolving line of credit in the maximum principal amount of \$4,000,000 pursuant to a FILM/Cash Solutions Promissory Note dated March 24, 1999 ("Film Note") and related documents, and (b) a secured equipment purchase line of credit in the stated principal amount of \$2,000,000 pursuant to a Commercial Loan Note ("Commercial Note") and a Security Agreement, both dated November 20, 1998, and related documents. This letter is being sent at the specific request and direction of the Lender.

As a result of the occurrence of various events which are materially adverse to the financial condition of the Borrower, and as a further result of the insolvency of the Borrower, the Lender hereby declares a default under the Commercial Loan Note and under the Security Agreement. In consequence of this declaration of default under the equipment purchase line of credit, the Lender hereby accelerates and declares immediately due and payable all sums presently outstanding and owing under the equipment purchase line of credit.

As a result of the default under the equipment line of credit, the Borrower is, in turn, in default under the cross-default provisions of Section 11 of the FILM Promissory Note, and the Lender hereby declares the default. In consequence of this default the Bank hereby accelerates and demands immediate payment of all sums presently due and owing under the FILM Promissory Note.

Because of the default under the FILM Promissory Note and the Bank's acceleration and demand for immediate payment of the sums due thereunder no further sums will be advanced under the revolving line of credit evidenced by the FILM/Cash Solutions Promissory Note, **effective immediately**. Any checks or other payments items in transit will not be honored by the Lender.

GEBHARDT & SMITH

CCI CONSTRUCTION CO., INC.

February 24, 2000

Page 2

The total sums presently due and outstanding under the equipment purchase line of credit and the revolving line of credit, respectively, are as follows:

Equipment Purchase Line Of Credit

Principal	\$1,244,116.74
Interest through February 23 2000	\$ 5,237.80
Total	<u>\$ 1,249,354.54</u>
Interest per day thereafter: \$231.54	

Revolving Line Of Credit

Principal	\$2,601,514.01
Interest through February 23, 2000	\$ 26,524.83
Total	<u>\$2,628,038.84</u>
Interest per day thereafter: \$596.18	

As previously stated, the Lender by this letter is demanding immediate payment in full of all sums due and owing to it by the Borrower under both loans. Unless full payment is made by the Borrower immediately upon receipt of this letter, all remedies available to the Lender under applicable law will be pursued without further notice to the Borrower, including the institution of judgment by confession and the enforcement of the Lender's security interest.

This letter is not intended to be a waiver of any rights, remedies, or recourse available to the Lender, nor an election of remedies arising as a result of the defaults or of any other default which may now or hereafter exist with respect to the revolving line of credit and the equipment line of credit. The collection of interest or acceptance of partial payments (that is, less than the total amount due in accordance with the terms of the debt instruments) by the Lender shall not constitute an extension of the maturity date of the revolving line of credit or equipment line of credit or a waiver of the Lender's acceleration of the indebtedness evidenced by the respective debt instruments or of any other rights under the loan documents.

Very truly yours,

Lawrence J. Gebhardt

LJG/dls

cc: Gerard L. Elias, SVP

- ALLFIRST BANK

Robert E. Chernicoff, Esquire

- CUNNINGHAM & CHERNICOFF, P.C.

B 104 (Rev. 8/87)	<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
----------------------	--	---

<b>PLAINTIFFS</b>		<b>DEFENDANTS</b>
CCI CONSTRUCTION CO., INC. a/k/a CCI/ORTENZIO COMPANY, INC.		ALLFIRST BANK
ATTORNEYS (Firm Name, Address, and Telephone No.) Cunningham & Chernicoff, P.C. 2320 North Second Street Harrisburg, PA 17110		ATTORNEYS (If Known) Michael D. Nord, Esq. Gebhardt & Smith, LLP 401 East Pratt St., 9th Floor Baltimore, MD 21202-3064

**PARTY** (Check one box only)  1 U.S. PLAINTIFF  2 U.S. DEFENDANT  3 U.S. NOT A PARTY

**CAUSE OF ACTION** (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Complaint for Recovery of Preferential Transfer Pursuant to  
Bankruptcy Code Section 547 or in the Alternative for Recovery  
of Improper Setoff pursuant to Bankruptcy Code Section 553

<b>NATURE OF SUIT</b> (Check the one most appropriate box only.)											
<input checked="" type="checkbox"/> 454 To Recover Money or Property <input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727						<input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11 or Chap. 13 Plan <input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. §523 <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan		<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court		<input type="checkbox"/> 498 Other (specify)	

<b>ORIGIN OF PROCEEDINGS</b>		<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed Proceeding	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another Bankruptcy Court	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
(Check one box only.)						

<b>DEMAND</b>	NEAREST THOUSAND \$ 2,300,000.00	OTHER RELIEF SOUGHT			<input type="checkbox"/> JURY DEMAND
---------------	-------------------------------------	---------------------	--	--	--------------------------------------

<b>BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES</b>					
NAME OF DEBTOR	CCI Construction Co., Inc. a/k/a CCI/Ortenzio Company, Inc.		BANKRUPTCY CASE NO. 1-00-02239		
DISTRICT IN WHICH CASE IS PENDING Middle District		DIVISIONAL OFFICE Harrisburg		NAME OF JUDGE Robert J. Woodside	

<b>RELATED ADVERSARY PROCEEDING (IF ANY)</b>					
PLAINTIFF		DEFENDANT		ADVERSARY PROCEEDING NO.	
DISTRICT		DIVISIONAL OFFICE		NAME OF JUDGE	

FILING FEE (Check one box only.)		<input checked="" type="checkbox"/> FEE ATTACHED	<input type="checkbox"/> FEE NOT REQUIRED	<input type="checkbox"/> FEE IS DEFERRED
DATE	PRINT NAME Robert E. Chernicoff	SIGNATURE OF ATTORNEY (OR PLAINTIFF)		

## ADVERSARY

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ALL DOCUMENTS REGARDING THIS MATTER  
MUST BE IDENTIFIED BY BOTH ADVERSARY  
BANKRUPTCY CASE NUMBERS.

BANKRUPTCY CASE NO. 1-00-02239

IN RE:

CCI CONSTRUCTION CO., INC.  
a/k/a CCI/ORTENZIO COMPANY,  
INC.

Plaintiff

v.

ALLFIRST BANK,

Defendant

CHAPTER 11

PREFERENCE COMPLAINT

ADVERSARY NO. 1-00-00011A

COMPLAINT FOR RECOVERY OF PREFERENTIAL TRANSFER  
PURSUANT TO BANKRUPTCY CODE SECTION 547 OR IN  
THE ALTERNATIVE FOR RECOVERY OF IMPROPER SETOFF  
PURSUANT TO BANKRUPTCY CODE SECTION 553

CCI Construction Co., Inc. a/k/a CCI/Ortenzio Company, Inc. (the "Debtor") files this Complaint to avoid preferential transfers of funds pursuant to 11 U.S.C. §547, or in the alternative to avoid improper setoffs pursuant to 11 U.S.C. §553, and in support thereof alleges as follows:

I. PARTIES.

1. CCI Construction Co., Inc., the above named Debtor, is a Pennsylvania corporation, doing business in Cumberland County, Pennsylvania.

2. On May 19, 2000 (the "Petition Date"), the Debtor filed a petition for relief under Chapter 11 of the United States Bankruptcy Code in the Middle District of Pennsylvania.

DS

01 U.S.C.  
JAN 10 PM 3:18  
CLERK U.S. BANKRUPTCY COURT  
FILED  
SAVANNAH, PA.

3. As a result of the filing of the petition under Chapter 11, the Debtor has been appointed as a Debtor-In-Possession.

4. Allfirst Bank (the "Bank") is a creditor of the above referenced Debtor, and is a banking institution authorized to do business within the Commonwealth of Pennsylvania and has an address therein of 213 Market Street, Harrisburg, Dauphin County, Pennsylvania.

II. JURISDICTION AND VENUE.

5. The within Court has jurisdiction of this matter pursuant to 28 U.S.C. §157 and 28 U.S.C. §1334 as a matter which arises under Title 11, United States Code, or as related to a case under Title 11, United States Code. This matter is a core proceeding under 28 U.S.C. §157. The venue of this case lies in this district pursuant to 28 U.S.C. §1408.

6. The statutory basis for this action are Section 547(b) of the United States Bankruptcy Code, 11 U.S.C. §547(b), and Section 553(b) of the United States Bankruptcy Code, 11 U.S.C. §553(b).

III. BACKGROUND.

7. Prior to and at the time of the filing of the Chapter 11 petition in this case, the Debtor was indebted to the Bank pursuant to the terms and conditions of two credit facilities as follows:

(a) A Film/Cash Solutions Promissory Note dated March 24, 1991 in a face principal amount of \$4,000,000.00 and dated March 24, 1991 ("Revolver Note"), as granted by the Debtor to the Bank.

(b) A Commercial Loan Note line of credit dated November 20, 1998 in the original face amount of \$2,000,000.00 and dated November 20, 1998 (the "Equipment Note"), as granted by the Debtor to the Bank.

True and accurate copies of the Revolver Note and the Equipment Note (collectively hereinafter the "Notes") are attached hereto as **Exhibit "A"** and **Exhibit "B"**, respectively, and incorporated by reference herein.

8. As collateral for the Equipment Note, the Debtor entered into and granted to the Bank a Security Agreement, and executed a UCC-1 as evidence thereof, in favor of the Bank which provides for a lien in:

"All present and future equipment for CCI Construction Co., Inc. financed by the First National Bank of Maryland, a national banking association, successor by merger to Dauphin Deposit Bank and Trust Company, that has not been paid in full."

The lien granted to the Bank is only on those items of equipment for which the Bank specifically provided purchase money financing. A true and correct copy of the UCC-1 is attached hereto as **Exhibit "C"** and incorporated by reference herein.

9. In addition to the Notes, that is the Revolver Note and the Equipment Note, granted by the Debtor to the Bank, the Debtor also previously granted to the Bank a Commercial Loan Note, Line of Credit, in the amount of \$1,200,000.00 which Commercial Loan Note is dated November 8, 1999. (Such Note is hereinafter the "\$1,200,000.00 Note").

10. As collateral for the \$1,200,000.00 Note, the Debtor granted the Bank a security interest in and lien on certain specific delineated equipment. As evidence of such lien, a UCC-1 was filed on or about November 17, 1999. A true and correct copy of such UCC-1 is attached hereto as **Exhibit "D"** and incorporated by reference herein. The second page of such

UCC-1 sets forth as Schedule A thereto the specific list of equipment which was provided to the Bank as collateral for the \$1,200,000.00 Note.

11. Except for those items of equipment for which the Bank provided purchase money financing to the Debtor under the Equipment Note, and those specific items of equipment which served as collateral for the \$1,200,000.00 Note, the Bank has no other collateral. (All such items are hereinafter the "Bank Collateral"). Because the value of the Bank Collateral is believed to be less than the total debt owed to the Bank as such remains under the two existing Notes, and most of such collateral has been liquidated, the Bank is believed to be mostly unsecured.

12. The Bank at no time relevant hereto had a lien upon the Debtor's accounts receivable or proceeds thereof or upon the Debtor's cash.

13. The Revolver Note operated as a revolving line of credit. Under the terms of the Revolver Note, the Debtor would place all of its receipts and deposits into an account at the Bank (known as corporate checking account 00288-6451-4 (the "Account")). The Bank operated what is known as a cash management system with respect to the Account whereby at the end of every business day, under normal practices, the

Bank would "sweep" all assets out of the Account so that at the end of each business day the balance in the Account would normally be zero.

14. Thereafter, under the cash management system, any checks which the Debtor had written and which would be presented for payment the next day after a sweep of the Account would be honored by the Bank, thereby constituting a new draw upon the Revolver Note. In this manner, the Debtor would reduce its interest costs. At the same time, under the terms of the Revolver Note, the Debtor was to have available to it an amount up to \$4,000,000.00 with which to pay its various obligations.

15. Subsequent to February 18, 2000, the Bank made no further loan advances to the Debtor under the Revolver Note and to the Account.

16. Further, by a letter dated February 24, 2000 from the law firm of Gebhardt & Smith, LLP, and directed to the Debtor, the Bank stated that the Debtor is in default under the Revolver Note and under the Equipment Note. A true and correct copy of such default letter is attached hereto as Exhibit "E" and made a part hereof.

17. The default declared by the Bank was "effective immediately". Further, any checks or other payments in transit were not honored by the Bank from the Account. Accordingly, as of February 24, 2000, the Bank began to stop honoring the various checks of the Debtor as such were presented to the Bank for payment from the Account.

18. As set forth on the Debtor's bank statements for the Account for the period from Febtuary 1, 2000 through February 29, 2000, the following transfers to the Bank occurred:

(a) On February 22, 2000, the Bank swept the balance from a prior deposit which had been made into the Account out to itself in the amount of \$510,840.84.

(b) On February 24, 2000, the Bank swept a deposit which had been made into the Account out to itself in the amount of \$638,911.65.

(c) On February 25, 2000, the Bank swept a deposit which had been made into the Account out to itself in the amount of \$1,167,539.00.

All of the foregoing transfers are hereinafter the "Transfers". A true and correct copy of the Debtor's bank statements and Revolver Loan statements are attached hereto as Exhibits "F" and "G", respectively, and made a part hereof.

19. The total amount of the Transfers from the Debtor's Account is \$2,317,291.29. All of the Transfers occurred subsequent to the Bank having stopped advancing funds to the Account of the Debtor under the Revolver Note.

20. The full amount of the Transfers was applied to the Revolver Note as verified by a review of the Debtor's bank statements, Revolver Loan statements and as summarized in Exhibit "H", attached hereto and made a part hereof. Exhibit "H" sets forth the Revolver Note Activity, daily balance, setoff and preference analysis as to the Account and Revolver Note. Subsequent to the Transfers, the amount owed under the Revolver Note is \$284,222.52.

COUNT I  
Relief Requested Under Section 547  
of the Bankruptcy Code

21. The allegations of Paragraphs 1 through 20 set forth above are incorporated herein by reference as if more fully set forth.

22. For the period from February 22, 2000 through February 25, 2000, which period is within 90 days before the Petition Date, the total sum of \$2,317.291.29 was swept from the Account, transferred to the Bank, and applied to the Revolver Note.

23. The Transfer of \$2,317,291.29 to the Bank was done for or on account of an antecedent debt owed by the Debtor to the Bank prior to each such Transfer having been made.

24. The Transfers were all made while the Debtor was insolvent.

25. The Transfers will enable the Bank to recover more than it would receive as a creditor if:

(a) The bankruptcy case were a case under Chapter 7 of Title 11, United States Code;

(b) The Transfers had not been made; and

(c) The Bank were to receive payment of its debt to the extent provided by the provisions of the Bankruptcy Code.

WHEREFORE, CCI Construction Co., Inc. a/k/a CCI/Ortenzio Company, Inc. respectfully requests that this Honorable Court:

- (a) Enter judgment against the Defendant, Allfirst Bank, and in favor of the Debtor in the amount of \$2,317,291.29;
- (b) Award the Debtor pre-judgment and post-judgment interest, costs and its fees in this action; and
- (c) Award the Debtor such other and further relief as this Honorable Court deems just and proper.

**COUNT II**

Relief Requested Under Section 553  
of the Bankruptcy Code

26. The allegations of Paragraphs 1 through 25 set forth above are incorporated herein by reference as if more fully set forth.

27. In the event that this Honorable Court determines that one or more of the Transfers as set forth above do not constitute preferences under Section 547 of the United States Bankruptcy Code, then, in the alternative, the Debtor is entitled to relief under Section 553 of the United States Bankruptcy Code.

28. Section 553(a) of the United States Bankruptcy Code permits, with certain exceptions, the right of a creditor to offset a mutual debt owed to the Debtor against the claim that the creditor has against the Debtor.

29. Such right of setoff is, however, limited by the provisions of Section 553(b) of the United States Bankruptcy Code.

30. Pursuant to Section 553(b) of the United States Bankruptcy Code, a Debtor-In-Possession may recover from a creditor any pre-petition setoffs to the extent that the setoff allows such creditor to improve its position after 90 days before the date of the filing of the Chapter 11 petition.

31. As set forth above, subsequent to February 24, 2000, the Bank failed under the terms of the Revolver Note to honor various checks of the Debtor as such were presented to the Bank for payment.

32. As a result of the Bank's failing to honor certain checks, the Account had a negative balance of \$51,672.83. Further, subsequent to the Transfers, the amount owed under the Revolver Note is \$284,222.52. Accordingly, the total loan balance under the Revolver Note, including the negative balance, was \$335,895.35 as of February 26, 2000.

33. The balance owed by the Debtor to the Bank under the Revolver Note as of February 18, 2000 was \$2,601,514.01. The difference between the amount owed under the Revolver Note on February 18, 2000 and February 26, 2000 is \$2,265,618.66.

34. The Transfers set forth above constitute setoffs which occurred during the period from February 18, 2000 through February 25, 2000, which period is within 90 days before the Petition Date.

35. Because of the Transfers, the Bank improved its unsecured position in the amount of \$2,265,618.66.

36. The Debtor is entitled to recover the amount of \$2,265,618.66 as the amount setoff by the Bank. Such amount is the difference between the insufficiency (or unsecured debt) owed to the Bank 90 days before the Petition Date and the insufficiency as of the Petition Date.

WHEREFORE, CCI Construction Co., Inc. a/k/a CCI/Ortenzio Company, Inc. respectfully requests that this Honorable Court:

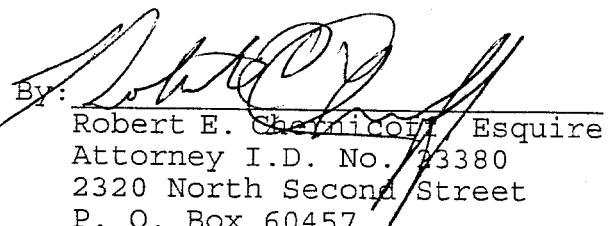
(a) Enter judgment against the Defendant, Allfirst Bank, and in favor of the Debtor in the amount of \$2,265,618.66;

(b) Award the Debtor pre-judgment and post-judgment interest, costs and its fees in this action; and

(c) Award the Debtor such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

CUNNINGHAM & CHERNICOFF, P.C.

By:   
Robert E. Chernicoff, Esquire  
Attorney I.D. No. 23380  
2320 North Second Street  
P. O. Box 60457  
Harrisburg, PA 17106-0457  
(717) 238-6570

Date: 1-10-00

**EXHIBIT "A"**

**FILM/CASH SOLUTIONS PROMISSORY NOTE  
(PENNSYLVANIA)**

\* a division of  
FMB Bank

**Instructions to Loan Officer:** Use for (a) loans to residents, regardless of amount, and (b) loans to non-corporate borrowers when the only purpose of any such loan is business and the principal amount of such loan exceeds \$10,000.

4,000,000.00 Mechanicsburg, PA March 24, 1999  
(City) (State)

FOR VALUE RECEIVED, the undersigned ("Borrower") promises to pay on demand to the order of THE FIRST NATIONAL BANK OF MARYLAND, 4000 Main Street, Baltimore, Maryland 21201, ("Bank"), at any of Bank's offices, or at such other place as the holder of this Promissory Note may from time to time designate, the principal sum of FOUR MILLION 00 and 00 /100 Dollars (\$ 4,000,000.00), or such other amount as may be advanced from time to time to Borrower, together with interest thereon at the rate or rates hereafter specified and any and all other sums which may be owing to Bank by Borrower pursuant to this Promissory Note. The following terms, as well as the applicable terms on Exhibit A, attached hereto and incorporated herein by reference, shall apply to this Promissory Note.

1. DEFINITIONS. The following terms have the following definitions:

A. "Account" means the commercial checking account maintained by Borrower with Bank and designated as Account No. 28864514, together with any replacement account therefor.

B. "Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in the Commonwealth of Pennsylvania are authorized to close.

C. "Incremental Advance Amount" means the amount indicated on Exhibit A as the Incremental Advance Amount. Each Loan must be an integral multiple of such amount.

D. "Initial Excess Balance" means, for any Business Day, the amount by which the collected balance in the Account at the end of such Business Day after posting all credits to the Account (subject to funds availability), but prior to posting any debits to the Account, exceeds the Target Balance.

E. "Line Availability" means, for any Business Day, an amount equal to the difference obtained by subtracting the aggregate principal balance outstanding under all Loans from the Maximum Line Amount.

F. "Loan" means an advance of monies from Bank to Borrower pursuant to the terms of this Promissory Note; and the term "Loans" means more than one Loan.

G. "Maximum Advance Amount" means an amount equal to the highest integral multiple of the Incremental Advance Amount which does not exceed the Line Availability.

H. "Maximum Line Amount" means the amount indicated on Exhibit A as the Maximum Line Amount, which amount is the maximum aggregate principal balance of the Loans which may be outstanding at any one time.

I. "Minimum Loan Advance" means the amount indicated on Exhibit A as the Minimum Loan Advance, which amount is the minimum principal amount of each Loan.

J. "Presented Items" means, for any Business Day, the aggregate amount of debits which have been presented for payment against the Account.

K. "Prime Rate" means a fluctuating annual rate of interest equal to the greater of: (i) that rate announced from time to time by Bank as its "prime rate" or (ii) the rate obtained by adding one percent (1%) to the average rate, rounded to the nearest one-hundredth of one percent, for three month maturity dealer placed commercial paper for the week most recently reported in the Federal Reserve Statistical Releases No. H.15(B13) entitled "Selected Interest Rates" or any succeeding publication.

L. "Target Balance" means the amount indicated on Exhibit A as the Target Balance, which amount is the minimum collected balance that must be maintained in the Account.

**2. PROCEDURES FOR LOANS.** All Loans shall be made in the form of a transfer of funds into the Account in

accordance with the procedures set forth in this paragraph. Borrower hereby irrevocably authorizes Bank to make Loans in accordance with the procedures set forth herein. At the end of each Business Day, Bank shall calculate the Initial Excess Balance and the aggregate amount of the Presented Items. In the event the Initial Excess Balance is less than the aggregate amount of the Presented Items, Bank shall make a Loan by transferring funds into the Account in an amount equal to the amount, which when added to the Initial Excess Balance, would be equal to the aggregate amount of the Presented Items; provided, however, that (a) the principal amount of the Loan shall not be less than the Minimum Loan Advance; (b) the principal amount of the Loan must be an integral multiple of the Incremental Advance Amount, and therefore, if it would not otherwise be an integral multiple of the Incremental Advance Amount, the amount of the Loan will be rounded up to the next higher integral multiple of the Incremental Advance Amount unless there is insufficient Line Availability in which case the Loan amount will be the Maximum Advance Amount; and (c) the principal amount of the Loan shall not exceed the Maximum Advance Amount. If at any time the amount of the Initial Excess Balance is less than the amount of the Presented Items by an amount greater than the Maximum Advance Amount, Bank shall: (i) make a Loan by transferring funds into the Account in an amount equal to the Maximum Advance Amount; and (ii) determine, in its sole discretion, which Presented Items will be paid, and which Presented Items will not be paid. In the event the Initial Excess Balance is greater than the amount of the Presented Items, Bank shall post and pay all of the Presented Items. If, following Bank's posting and paying of all of the Presented Items, there remains a balance in the Account in excess of the Target Balance, Bank is hereby irrevocably authorized to debit the Account in an amount up to the portion of the balance in the Account which exceeds the Target Balance, and apply such sum to the outstanding balance of the Loans. Bank agrees to make such debit of the Account to repay sums outstanding under the Loans as of the end of each Business Day; provided, however, that in the event the option labeled "Cash Solutions Protection" is marked on Exhibit A attached hereto, Bank shall not automatically debit the Account to make payments on the Loans, but may do so, in its sole and absolute discretion.

3. TERMINATION. The procedure for making Loans, and the obligation of Bank to provide Loans, as set forth in this Promissory Note, may be terminated by Borrower upon ten (10) days prior written notice to Bank and may be terminated by Bank upon thirty (30) days prior written notice to Borrower. Upon termination, no further Loans shall be made under this Promissory Note, but all other terms of this Promissory Note (including, but not limited to, the holder's right to demand payment at any time and for any reason) shall remain in full force and effect.

4. **INTEREST.** From the date hereof until all sums due hereunder, including principal, interest, charges, fees and expenses are paid in full, the principal amount outstanding from time to time pursuant to this Promissory Note shall bear interest as follows (Check One):

**Fluctuating Rate.** At a fluctuating rate equal to \_\_\_\_\_ % per annum above the Prime Rate in effect from time to time. Bank at its discretion may charge a lesser rate from time to time. Interest on the principal amount outstanding shall be adjusted daily, with the rate for each day being adjusted to reflect the Prime Rate in effect at the close of business on that day. Bank makes loans at interest rates at, above and below the Prime Rate.

**Other (described: Interest shall accrue at a rate per annum equal to the Bank's Base Rate minus 1/2% as in effect from time to time.)**

5. **CALCULATION OF INTEREST.** Interest shall be calculated on the basis of a three hundred sixty (360) days per year factor applied to the actual days on which there exists an unpaid balance hereunder.

6. **REPAYMENT.** Borrower shall make payments of principal and interest in accordance with the following terms:  
 (a) **Principal:** ALL SUMS OUTSTANDING UNDER THIS PROMISSORY NOTE, INCLUDING THE PRINCIPAL AMOUNT OF ALL OF THE LOANS, ARE IMMEDIATELY DUE IN FULL UPON THE FIRST TO OCCUR OF: (i) THE DEMAND OF THE HOLDER OF THIS PROMISSORY NOTE, WHICH DEMAND MAY BE MADE AT ANY TIME AND FOR ANY REASON, IN THE SOLE AND ABSOLUTE DISCRETION OF THE HOLDER OF THIS PROMISSORY NOTE; OR (ii) THE OCCURRENCE OF ANY DEFAULT UNDER THE TERMS OF THIS PROMISSORY NOTE WITHIN 30 DAYS WHEN NOTICE IS PROVIDED.  
 (b) **Interest:** Borrower shall make payments of all accrued and unpaid interest on the 31st day of each successive month, beginning on March 31, 1999 and continuing until all sums outstanding hereunder are paid in full.  
 Borrower may prepay this Promissory Note in whole or in part at any time or from time to time without premium or additional interest.

7. **LATE PAYMENT CHARGE.** If any payment due hereunder (including any payment in whole or in part of principal) is not received by the holder within fifteen (15) calendar days after its due date, Borrower shall pay a late payment charge equal to five percent (5%) of the amount then due.

8. **APPLICATION OF PAYMENTS.** All payments made pursuant to this Promissory Note shall be applied first to accrued and unpaid interest, then to unpaid expenses and charges payable hereunder, and then to principal; or in such other order or proportion as the holder, in the holder's sole discretion, may elect from time to time.

9. **SECURITY.** ~~Summae due under this Promissory Note are secured by, and Borrower grants to Bank a security interest in, all deposits and property of Borrower now or at any time hereafter in the possession of or on deposit with Bank whether as custodian or depository or in any other capacity. Bank shall have the right to set-off and apply against the obligations of Borrower to Bank evidenced by this Promissory Note any sums of Borrower at any time on deposit with Bank whether such deposits are special, time or demand, provisional or final. In addition, this Promissory Note is secured by any property described as collateral in any security agreement, pledge agreement or other document previously, simultaneously, or hereafter entered into by Borrower in connection with any obligation or liability of Borrower to Bank or any corporate affiliate of Bank, such other security documents include but are not limited to the following:~~

**Security Agreement(s)**  
 **Real estate mortgage or deed of trust on property known as \_\_\_\_\_ located in \_\_\_\_\_ County/City, State of \_\_\_\_\_**  
 **Other (described: Unsecured)**

This Promissory Note specifically incorporates by reference, as if fully set forth herein, all of the language and provisions of the security documents described generally or specifically above.

10. **REPRESENTATIONS AND WARRANTIES.** Borrower (and if more than one Borrower, each Borrower) represents and warrants to Bank that the following statements are true, correct and complete as of the date hereof, and as of the date each Loan is made hereunder: (a) it is duly organized and in good standing under the laws of the state in which it is organized; (b) it has the full power and authority to execute, deliver and perform this Promissory Note; (c) neither such execution, delivery and performance, nor compliance by it with the provisions of this Promissory Note will conflict with or result in a breach or violation of its organizational documents, or any judgment, order, regulation, ruling or law to which it is subject or any contract or agreement to which it is a party or to which any of its assets and properties are subject; (d) this Promissory Note constitutes its legal, valid and binding obligation enforceable in accordance with its terms; (e) there is no litigation or proceeding pending or, to the knowledge of its representative signing this Promissory Note on its behalf, threatened against or affecting it which might materially adversely affect its business, financial condition or operations or its ability to perform and comply with this Promissory Note; (f) all financial statements and information furnished or to be furnished to Bank hereunder have been and will be prepared in accordance with generally accepted accounting principles and fairly present its financial condition as of the date thereof and the results of its operations for the period covered thereby; (g) it is not in violation of any applicable federal, state or local law, statute, rule, regulation or ordinance and has not received any notice nor is the subject of any investigation to the effect that its operations are not in material compliance with any such law, statute, rule, regulation or ordinance, including, without limitation, applicable environmental, health and safety laws and regulations; (h) since September 2, 1974, no pension, employee benefit, multi-employer, profit sharing, savings, stock bonus or other deferred compensation plan ("Plan") maintained by it or any trade or business group with which it is affiliated subject to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) has been terminated, no lien exists against Borrower in favor of the Pension Benefit Guaranty Corporation (PBGC), and no "reportable event" (as such term is defined in ERISA) has occurred with respect to any such Plan, and Borrower has not incurred any "accumulated funding deficiency" within the meaning of ERISA or any liability to the PBGC in connection with any Plan; and (i) no information, exhibit, report, statement, certificate or document furnished by Borrower or any other person to Bank in connection with the Loans, this Promissory Note or the negotiation thereof contains any material

mislead, intent of fact or omitted to state a material fact or any fact necessary to make the statements contained herein or therein not misleading.

11. **DEFAULT.** Any of the following will be a default under this Promissory Note: (a) failure to pay any principal, expense, fee, charge or interest when due, or failure to perform any other obligations hereunder; (b) a default by any person other than Borrower that is now or hereafter liable upon or in connection with any of the obligations of any Borrower to Bank or that has granted any lien or security interest to or for the benefit of Bank to secure any of the obligations of any Borrower to Bank ("Other Obligor"), upon any of the existing or future obligations of any Other Obligor to Bank; (d) a default in any other agreement, instrument or document between any Borrower or Other Obligor and Bank, or any corporate affiliate of Bank, including, without limitation, any security document referred to above, whether previously, simultaneously, or hereafter entered into; (e) a material adverse change in the financial condition of any Borrower or Other Obligor from that expressed in the financial statement most recently submitted to Bank prior to the date of this Promissory Note, as determined in good faith by Bank in its sole discretion; (f) institution of bankruptcy, insolvency, reorganization or receivership proceedings by or against any Borrower or Other Obligor in any state or federal court; (g) the appointment of a receiver, assignee, custodian, trustee or similar official under any federal or state insolvency or creditors' rights law for any property of any Borrower or Other Obligor; (h) failure of any Borrower or Other Obligor to furnish to Bank such collateral as may be requested in good faith; (i) any warranty, representation, or statement to Bank by or on behalf of any Borrower or Other Obligor proving to have been incorrect in any material respect when made or furnished; (j) the occurrence of any event which is, or would be with the passage of time or the giving of notice or both, a default under any indebtedness of any Borrower or Other Obligor to any person other than Bank; (k) any material loss, theft or substantial damage, which is not fully insured, to any of the assets of any Borrower or Other Obligor, or the sale, transfer, lease, encumbrance or other disposition of all or any material part of the assets of any Borrower or Other Obligor other than in the ordinary course of business of Borrower or Other Obligor; (l) the entry of any final judgment against any Borrower or Other Obligor for the payment of money in excess of \$8,000.00; (m) the levy upon or attachment of any assets of any Borrower or Other Obligor; (n) the recordation of any federal, state or local tax lien against any Borrower or Other Obligor; (o) a change of ownership or dissolution, merger, consolidation, liquidation or reorganization of any Borrower or Other Obligor which is a corporation, partnership or other legal entity; (p) the death of any Borrower or Other Obligor who is a natural person; (q) failure of any Borrower or Other Obligor to furnish to Bank such financial information as Bank may require from time to time, including, but not limited to, such financial statements as Bank may require; (r) failure of any Borrower or Other Obligor to comply with all laws, rules, regulations and decrees to which such Borrower or Other Obligor may be subject, the violation of which may have a material adverse effect on the business operation or financial condition of such Borrower or Other Obligor; (s) the acquisition by a Borrower of all or substantially all of the assets, properties or equity interest of any other person or entity without Bank's prior written consent; (t) failure of any Borrower to maintain its existence in good standing in the jurisdiction of its organization; (u) any of the licenses or permits which are necessary to the conduct of any Borrower's business as now conducted is not maintained in full force and effect; or (v) the determination in good faith by Bank, in its sole discretion, that the ability of any Borrower or Other Obligor to pay or perform any of their prospective obligations to Bank is impaired for any reason.

12. **REMEDIES.** Upon a default, in addition to all other rights and remedies available to the holder of this Promissory Note under any document or agreement between Borrower and Bank or under applicable law, the holder of this Promissory Note, in the holder's sole discretion and without notice or demand, may raise the rate of interest accruing on the unpaid principal balance outstanding under this Promissory Note by two (2) percentage points above the rate of interest otherwise applicable. The Bank shall have no further obligation to provide any Loans to Borrower following: (a) a demand by Bank for payment hereunder; or (b) a default under this Promissory Note. Borrower agrees that a default under this Promissory Note is a default by Borrower under all other liabilities and obligations of Borrower to the holder, and that the holder shall have the right to declare immediately due and payable all liabilities and obligations owed by Borrower to the holder of this Promissory Note.

13. **CONFESSION OF JUDGMENT.** Borrower irrevocably and unconditionally authorizes any attorney admitted to practice before any court of record in the United States to appear on behalf of Borrower in any court in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and appear for, to confess and enter judgment against Borrower, at any time, whether before or after the occurrence of any default hereunder, with or without trial of default, with or without complaint filed, and without prior notice or opportunity of Borrower for prior hearing, in favor of the holder of this Promissory Note in the full amount outstanding on this Promissory Note (including principal, accrued interest and any and all charges, fees and expenses) plus court costs, plus attorneys' fees equal to fifteen percent (15%) of the unpaid balance of principal, interest, charges, and other sums outstanding hereunder, with release of all errors and without right of appeal. Borrower waives the benefit of any and every statute, ordinance, or rule of court which may be lawfully waived conferring upon Borrower any right or privilege of exemption, homestead rights, appraisalment, stay of execution, or supplementary proceedings, or other relief from the enforcement or immediate enforcement of a judgment or related proceedings on a judgment. (To the extent prohibited by applicable law, any judgment obtained by confession shall not constitute a lien on any real property located in Pennsylvania which is the residence of the Borrower.) The authority and power to appear for and enter judgment against Borrower shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the same or different jurisdictions, as often as the holder shall deem necessary or advisable. BORROWER HEREBY ACKNOWLEDGES THAT THE CONFESSION OF JUDGMENT PROVISIONS HEREIN CONTAINED WHICH AFFECT AND WAIVE CERTAIN LEGAL RIGHTS OF BORROWER HAVE BEEN READ, UNDERSTOOD AND VOLUNTARILY AGREED TO BY BORROWER.

14. **EXPENSES.** Borrower shall pay all costs and expenses, including attorneys' fees (to the extent not prohibited by law) incident to the making of the Loans. Borrower shall pay all costs and expenses incurred by Bank in collecting sums due under this Promissory Note, including without limitation the costs of any lien, judgment or other record searches, appraisals, travel expenses and the like. In addition, if this Promissory Note is referred to an attorney for collection, whether or not judgment has been confessed or suit has been filed, Borrower shall pay all of the holder's costs, fees (including, but not limited to, the holder's attorneys' fees, charges and expenses) and all other expenses resulting from such referral.

15. **AMENDMENTS.** The fees and charges required to be paid by Borrower in connection with the Loans may, at any time and from time to time, be amended by Bank, upon prior written notice thereof to Borrower and otherwise in compliance with applicable law. Any such amendment shall become effective on the first day of the month in which Borrower obtains a Loan, after the date specified in the notice of amendment (which date shall be not less than thirty (30) days from the date

the notice was mailed to Borrower), or upon such other date as may be required in accordance with applicable law. If Borrower obtains a Loan after the date specified in the notice, the changes in the fees and charges described in the amendment shall apply to all outstanding unpaid indebtedness and obligations under this Promissory Note, whether incurred or arising prior to, upon, or after the effective date of the amendment.

**16. NEGOTIABLE INSTRUMENT.** Borrower agrees that this Promissory Note shall be deemed to be a negotiable instrument, even though this Promissory Note may not qualify under applicable law, absent this paragraph, as a negotiable instrument.

**17. WAIVERS.** Borrower, and all parties to this Promissory Note, whether maker, indorser, or guarantor, waive presentment, demand, notice of dishonor and protest.

**18. EXTENSIONS OF MATURITY.** All parties to this Promissory Note, whether maker, indorser, or guarantor, agree that the maturity of this Promissory Note, or any payment due hereunder, may be extended at any time or from time to time without releasing, discharging, or affecting the liability of such party.

**19. NOTICES.** Any notice or demand required or permitted by or in connection with this Promissory Note, without implying the obligation to provide any notice or demand, shall be in writing at the address set forth below or to such other address as may be hereafter specified by written notice to Bank by Borrower. Any such notice or demand shall be deemed to be effective as of the date of hand delivery or facsimile transmission, one (1) day after dispatch if sent by telegram, teletype, overnight delivery, express mail or federal express, or three (3) days after mailing if sent by first class mail with postage prepaid.

**20. ASSIGNABILITY.** This Promissory Note may be assigned by Bank or any holder at any time.

**21. JOINT AND SEVERAL LIABILITY.** If more than one person or entity is executing this Promissory Note as Borrower, all liabilities under this Promissory Note, shall be joint and several with respect to each of such persons or entities.

**22. BINDING NATURE.** This Promissory Note shall inure to the benefit of and be enforceable by Bank and Bank's successors and assigns and any other person to whom Bank may grant an interest in Borrower's obligations to Bank, and shall be binding and enforceable against Borrower and Borrower's personal representatives, successors and assigns.

**23. INVALIDITY OF ANY PART.** If any provision or part of any provision of this Promissory Note shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Promissory Note and this Promissory Note shall be construed as if such invalid, illegal or unenforceable provision or part thereof had never been contained herein, but only to the extent of its invalidity, illegality or unenforceability.

**24. MAXIMUM RATE OF INTEREST; COMMERCIAL LOAN.** Notwithstanding any provision of this Promissory Note to the contrary, Borrower shall not be obligated to pay interest hereunder in excess of the maximum rate of interest permitted by the laws of any state determined to govern this Promissory Note or the laws of the United States applicable to loans in such state. If any provision of this Promissory Note shall ever be construed to require the payment of any amount of interest in excess of that permitted by applicable law, then the interest to be paid hereunder shall be held subject to reduction to the amount allowed under applicable law, and any sum paid in excess of the interest rate allowed by law shall be applied in reduction of the principal balance outstanding under this Promissory Note. Borrower acknowledges that it has been contemplated at all times by Borrower that the laws of the Commonwealth of Pennsylvania will govern the maximum rate of interest that it is permissible for the holder of this Promissory Note to charge Borrower under this Promissory Note. Borrower warrants that this Promissory Note evidences a loan made solely to acquire or carry on a business or commercial enterprise.

**25. CHOICE OF LAW; CONSENT TO VENUE AND JURISDICTION.** This Promissory Note shall be governed, construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, even if the Commonwealth of Pennsylvania's rules governing conflicts of laws would otherwise require that the laws of another jurisdiction govern this Promissory Note. Borrower consents to the jurisdiction and venue of the courts of any city or county in the Commonwealth of Pennsylvania or to the jurisdiction and venue of the United States District Court for the Middle District of Pennsylvania in any action or judicial proceeding brought to enforce, construe or interpret this Promissory Note.

**26. UNCONDITIONAL OBLIGATIONS.** Borrower's obligations under this Promissory Note shall be the absolute and unconditional duties and obligations of Borrower and shall be independent of any rights of set-off, recoupment or counterclaim which Borrower might otherwise have against the holder of this Promissory Note, and Borrower shall pay absolutely the payments of principal, interest, fees, charges and expenses required hereunder, free of any deductions and without abatement, diminution or set-off.

**27. ACTIONS AGAINST BANK.** Any action brought by Borrower against Bank which is based, directly or indirectly, or in whole or in part, upon this Promissory Note or any matter related to this Promissory Note shall be brought only in the courts of the Commonwealth of Pennsylvania.

**28. WAIVER OF JURY TRIAL.** Borrower (by execution of this Promissory Note) and Bank (by acceptance of this Promissory Note) agree that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by Borrower, Bank, or any successor or assign of Borrower or Bank on or with respect to this Promissory Note or which in any way relates, directly or indirectly, to the obligations of Borrower to Bank under this Promissory Note, or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. **BORROWER AND BANK HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING.** Borrower and Bank acknowledge and agree that this provision is a specific and material aspect of the agreement between the parties and that Bank would not enter into the transaction with Borrower if this provision were not a part of their agreement.



**EXHIBIT A**  
**FILM/Cash Solutions Promissory Note**

Account Number: 28864514

Borrower: CCI Construction Co., Inc.

The terms and provisions of the option checked below are incorporated in and made a part of the FILM/Cash Solutions Promissory Note executed by Borrower to which this Exhibit A is attached:

**FILM LOAN OPTION** - The following terms apply to this option:

- i) Maximum Line Amount - \$4,000,000.00
- ii) Minimum Loan Advance - \$0.01
- iii) Incremental Advance Amount - \$1.00
- iv) Target Balance - \$0
- v) Fees - \$0

**CASH SOLUTIONS PROTECTION OPTION** - The following terms apply to this option:

- i) Maximum Line Amount -
- ii) Minimum Loan Advance - \$500.00
- iii) Incremental Advance Amount - \$500.00
- iv) Target Balance -
- v) Fees -

**CASH SOLUTIONS MAXIMIZER OPTION** - The following terms apply to this option:

- i) Maximum Line Amount -
- ii) Minimum Loan Advance - \$500.00
- iii) Incremental Advance Amount - \$500.00
- iv) Target Balance -
- v) Fees -

**CASH SOLUTIONS INVESTMENT OPTION** - Balance in Account is not transferred to Investments until all Loans are paid in full.

**CASH SOLUTIONS LOAN OPTION** - The following terms apply to this option:

- i) Maximum Line Amount -
- ii) Minimum Loan Advance - \$100.00
- iii) Incremental Advance Amount - \$100.00
- iv) Target Balance -
- v) Fees -

**WITNESS/ATTEST:**

**BORROWER:**

CCI Construction Co., Inc.

By:

Name: Sherry Phillips Title: CO (SEAL)

If Borrower is an individual he or she should sign below:

Name: \_\_\_\_\_ (SEAL)

**EXHIBIT "B"**

CCCI Construction Co., Inc.  
COMMERCIAL LOAN NOTE  
LINE OF CREDIT

0102598-0199  
CPI

DAUPHIN DEPOSIT BANK AND TRUST COMPANY  
BANK OF PENNSYLVANIA • FARMERS BANK • VALLEYBANK • THE YORK BANK AND TRUST COMPANY  
(Divisions of The First National Bank of Maryland)

\$ 2,000,000.00

Date 11-20-98

FOR VALUE RECEIVED, the undersigned, CCCI Construction Co., Inc., a (corporation/partnership/limited liability company/individual) (the "Borrower"), jointly and severally (if more than one), promise to pay to the order of THE FIRST NATIONAL BANK OF MARYLAND (the "Bank") or its assigns, the principal amount of TWO MILLION & NO/100 DOLLARS to be paid as follows:

Borrowings under the Loan will require the monthly payment of principal and interest sufficient to fully amortize the Loan over a term not to exceed sixty (60) months.

Borrowings under the Loan will bear interest at an annual rate equal to The First National Bank of Maryland base rate as in effect from time to time or fixed rates as offered by Bank.

Interest shall be calculated on the basis of the actual number of days elapsed and a year of 360 days. Both principal and interest are payable in lawful money of the United States of America at any office of Bank in immediately available funds. If any payment due hereunder is received by the Bank more than fifteen (15) calendar days after its due date, the Borrower shall pay a late payment charge equal to five percent (5%) of the amount then due or \$10.00, whichever is greater.

**APPLICATION OF PAYMENTS.** All payments made hereunder shall be applied first to late payment charges or other sums owed to the Bank, next to accrued interest, and then to principal, or in such other order or proportion as the Bank, in its sole and absolute discretion, may elect from time to time.

**SECURITY.** The payment of this note and any renewals, extensions and modifications thereto, and the payment, performance and discharge of all other present or future indebtedness, obligations and understandings (individual, joint, several, direct, contingent, or otherwise) of the Borrower to or for the benefit of the Bank; whether arising directly to the Bank under this note or under any other agreement, promissory note or undertakings now existing or hereinafter entered by the Borrower to the Bank (collectively, the "Liabilities") is secured by the property described in, and under and pursuant to the terms and conditions of that certain

Collateral as set forth in a Security Agreement - Specific Collateral dated 11/10/98.

As additional security for the Liabilities, Borrower grants the Bank a lien upon and a security interest in any securities, instruments or other personal property of Borrower now or hereafter in Bank's possession and in any deposit balances now or hereafter held by Bank for Borrower's account and in all proceeds of any such personal property or deposit balances. Such liens and security interests shall be independent of Bank's right of setoff.

**STATEMENT OF ACCOUNT.** The Bank will furnish the Borrower with a statement of account on a periodic basis. Each and every statement of account shall be final, conclusive and binding upon the Borrower in all respects as to the outstanding balance of principal and as to all loans, fees, interest, charges, payments, receipts, balances, and all other matters reflected therein unless the Borrower, within ten (10) days after the posting thereof in the United States mail, shall give notice to the Bank in writing of any objections which the Borrower may have to any such statement of account; and in such event, only those items expressly objected to in such written notice shall be considered to be disputed by the Borrower and all other items shall be binding.

**PAYMENT OF COSTS.** In addition to the principal and interest payments specified above, the Borrower shall pay to the Bank or any other holder of this note, upon demand, all costs and expenses (including reasonable attorneys' fees, whether or not litigation is commenced) which may be incurred by the Bank or such holder in the collection or enforcement of this note. Said costs shall include reasonable attorneys' fees and costs in bankruptcy proceedings and any costs and attorneys' fees incurred for any action or proceeding in relation to the loan transaction, including but not limited to the joinder of Bank in any action between the Borrower and a third party.

**DEFAULTS.** The Borrower shall be in default hereunder upon the occurrence of any of the following events: (a) the nonpayment when due of any amount payable on any of the Liabilities, or the failure of any Obligor to observe or perform any agreement of any nature whatsoever with the Bank (the term "Obligor" as used herein being meant to include the Borrower and all persons liable on the note or any renewals, extensions, or modifications thereof, such as endorsers, sureties, or guarantors); (b) if any Obligor becomes insolvent or makes an assignment for the benefit of creditors, or if any petition is filed by or against any Obligor under any provisions of any law or statute alleging that such Obligor is insolvent or unable to pay debts as they mature; (c) the entry of any judgment against any Obligor or the issuing of any attachment or garnishment against any property of any Obligor or the occurrence of any change in the financial condition of any Obligor which in the sole judgment of the Bank is materially adverse; (d) the dissolution, merger, consolidation or reorganization of any Obligor, which is an entity such as a corporation, limited partnership, partnership or limited liability company; (e) the death of any Obligor who is a natural person; (f) any information heretofore or hereinafter furnished to the Bank by any Obligor in connection with the loan evidenced hereby or any suretyship or guaranty should be materially false; and (g) the failure of any Obligor to furnish such financial and other information as the Bank may reasonably request. If this Note is payable on demand, Bank's right to demand payment hereof shall not be restricted or impaired by the absence of, non-occurrence of or waiver of a default hereunder, and it is understood that Bank may demand payment at any time.

**ACCELERATION AND ENFORCEMENT RIGHTS.** Whenever the Borrower shall be in default as aforesaid, (1) unless the Bank elects otherwise, the entire unpaid amount of such of the Liabilities as are not then due and payable shall become immediately due and payable without notice to or demand on any Obligor, and (2) the Bank may at its option exercise from time to time any or all rights and remedies available to it at law or in equity. The Borrower waives all right to stay of execution or garnishment and exemption of property in any action to enforce any of the Liabilities.

**JUDGMENT.** The Borrower does hereby authorize and empower any attorney of any court of record of Pennsylvania or elsewhere to appear for and enter judgment against Borrower for the above sum, with or without declaration, with costs of suit, including reasonable attorneys' fees and fees in bankruptcy proceedings, if any, release of errors, without stay of execution, and with fifteen (15%) percent added for collection fees, and the Borrower further agrees that real, personal or mixed property may be sold or garnished upon any writ of execution or writ of garnishment as now or hereafter provided by law or the Pennsylvania Rules of Civil Procedure governing the enforcement of judgments; and Borrower hereby waives and releases all relief from any appraisal, stay or exemption laws of any state now in force or hereafter enacted. If a copy hereof, verified by affidavit, shall have been filed in such proceeding, it shall not be necessary to file the original as a warrant of attorney. The Borrower (and each of them, if more than one) hereby waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of this warrant and power to confess judgment shall be deemed to exhaust this power, whether or not any such exercise shall be held by any court to be invalid, voidable or void, but this power shall continue undiminished and may be exercised from time to time as often as Bank shall elect until all sums due hereunder shall have been paid in full.

**WAIVERS.** The Borrower hereby waives presentment, notice of dishonor and protest. The Borrower hereby waives and releases all errors, defects and imperfections of a procedural nature in any proceedings instituted by the Bank hereunder, as well as all benefit that might accrue to the Borrower by virtue of any present or future laws exempting any property, real or personal, or any part of the proceeds arising from any sale of such property, from garnishment, attachment, levy or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment. The Borrower agrees that any property, real or personal, that may be levied upon pursuant to any writ of execution or writ of garnishment issued on any judgment by virtue of this note, may be sold, in whole or in part, in any order desired by the Bank.

**HOLDERS IN DUE COURSE.** This note may be assigned by the Bank or any subsequent holder of this note at any time or from time to time. The Borrower hereby agrees that no subsequent holder of this note to whom the note was transferred for value shall be subject to any claims or defenses which the Borrower may have against a prior holder; all of which are waived as to such subsequent holder, and that all such subsequent holders shall have all of the rights of a holder in due course even though the subsequent holder may not qualify, under applicable law, absent this paragraph, as a holder in due course.

**AMISCELLANEOUS.** Any failure of the Bank to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other right at any other time. If the Borrower consists of more than one person, such persons shall be jointly and severally liable hereunder. The Borrower intends this to be a sealed instrument and to be legally bound hereby. This note shall inure to the benefit of and be enforceable by the Bank and its successors and assigns and be binding and enforceable against the Borrower, its legal representatives, successors and permitted assigns. All issues arising hereunder shall be governed by the laws of Pennsylvania without giving effect to choice of law rules.

CCI Construction Co., Inc.

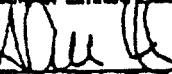
BORROWER



WITNESS OR ATTEST:

  
 Name and Title E.M. Adley, Ass't Secretary (Seal)  
 Name and Title (Seal)  
 Name and Title (Seal)  
 Name and Title (Seal)  
 Name and Title (Seal)

(Name of Individual, Corporation,  
Partnership or Limited Liability Company)

By:  CFO (Seal)  
 Name and Title D.L. Phillips, CFO (Seal)  
 By: Name and Title (Seal)

PO Box 1129, Mechanicsburg, PA 17053  
 Address

**EXHIBIT "C"**

## PARTIES

Debtor name (last name first if individual) and mailing address:  
 CCI Construction Co., Inc.  
 203 Lynndale Court  
 Mechanicsburg, PA 17055-2893

Debtor name (last name first if individual) and mailing address:

Debtor name (last name first if individual) and mailing address:

Secured Party(ies) name(s) (last name first if individual) and address for security interest information:

The First National Bank of Maryland  
 3045 Market Street  
 Camp Hill, PA 17101

Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:

## Special Types of Parties (check if applicable):

The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively.

The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively.

Debtor is a Transmitting Utility.

## SECURED PARTY SIGNATURE(S)

This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es)) -

a.  acquired after a change of name, identity or corporate structure of the Debtor.

b.  as to which the filing has lapsed.

c. already subject to a security interest in another county in Pennsylvania -  
 when the collateral was moved to this county.  
 when the Debtor's residence or place of business was moved to this county.

d. already subject to a security interest in another jurisdiction -  
 when the collateral was moved to Pennsylvania.  
 when the Debtor's location was moved to Pennsylvania.

e.  which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).

Secured Party Signature(s)  
 (required only if box(es) is checked above):

## FINANCING STATEMENT

Uniform Commercial Code Form UCC-1  
 IMPORTANT - Please read instructions on  
 reverse side of page 4 before completing

Filing No. (stamped by filing officer):

Date, Time, Filing Office (stamped by filing officer):

29621775

98 NOV 25 PM 10:26

This Financing Statement is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):

DEPT. OF STATE  
 CORPORATION BUREAU

County.  
 County.

Number of Additional Sheets (if any):

Optional Special Identification (Max. 10 characters):

## COLLATERAL

Identify collateral by item and/or type:

All present and future equipment for CCI Construction Co., Inc. financed by The First National Bank of Maryland, a national Banking Association, successor by merger to Dauphin Deposit Bank and Trust Company, that has not been paid in full.

(check only if desired) Products of the collateral are also covered.

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es)) -

a.  crops growing or to be grown on -  
 b.  goods which are or are to become fixtures on -  
 c.  minerals or the like (including oil and gas) as extracted on -  
 d.  accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:

Street Address:

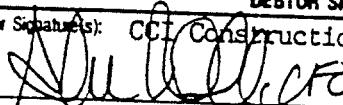
Described at Book \_\_\_\_\_ of (check one)  Deeds  Mortgages, at Page(s) \_\_\_\_\_  
 for \_\_\_\_\_ County. Uniform Parcel Identifier \_\_\_\_\_

Described on Additional Sheet.

Name of record owner (required only if no Debtor has an interest of record):

## DEBTOR SIGNATURE(S)

Debtor Signature(s): CCI Construction Co., Inc.

1 

1a Sheri Phillips, Chief Financial Officer

1b

## RETURN RECEIPT TO:

The First National Bank of Maryland  
 3045 Market Street  
 Camp Hill, PA 17011  
 ATTN: Craig J. Schwartz  
 Mail Code: ; 014-02-01

**EXHIBIT "D"**

<u>PARTIES</u>	
Debtor name (last name first if individual) and mailing address:	
<b>CCI Construction Co., Inc.</b> <b>2500 Old Gettysburg Road</b> <b>Camp Hill, PA 17011-7307</b>	
1	
Debtor name (last name first if individual) and mailing address:	
1a	
Debtor name (last name first if individual) and mailing address:	
1b	
Secured Party(ies) name(s) (last name first if individual) and address for security interest information:	
<b>Allfirst Bank</b> <b>3045 Market Street</b> <b>Camp Hill, PA 17011</b>	
2	
Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:	
2a	
Special Types of Parties (check if applicable):	
<input type="checkbox"/> The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively <input type="checkbox"/> The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively. <input type="checkbox"/> Debtor is a Transmitting Utility.	
3	
<u>SECURED PARTY SIGNATURE(S)</u>	
This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es)) --	
a. <input type="checkbox"/> acquired after a change of name, identity or corporate structure of the Debtor. b. <input type="checkbox"/> as to which the filing has lapsed. c. already subject to a security interest in another county in Pennsylvania -- <input type="checkbox"/> when the collateral was moved to this county. <input type="checkbox"/> when the Debtor's residence or place of business was moved to this county. d. already subject to a security interest in another jurisdiction -- <input type="checkbox"/> when the collateral was moved to Pennsylvania. <input type="checkbox"/> when the Debtor's location was moved to Pennsylvania. e. <input type="checkbox"/> which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).	
Secured Party Signature(s) (required only if box(es) is checked above):	
<hr/> <hr/> <hr/> <hr/> <hr/>	

FINANCING STATEMENT  
Uniform Commercial Code Form UCC-1  
IMPORTANT - Please read instructions on  
reverse side of page 4 before completing

Filing No. (stamped by filing officer):

Date, Time, Filing Office (stamped by filing officer)

30950306

99 NOV 17 AM 10:56

PAT DEPT OF STATE

This Financing Statement is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):

Secretary of the Commonwealth.

Prothonotary of \_\_\_\_\_ County.

real estate records of \_\_\_\_\_ County.

Number of Additional Sheets (if any):

Optional Special Identification (Max. 10 characters): 0102598-~~8800M~~

COLLATERAL

Identify collateral by item and/or type:

See attached schedule

(check only if desired) Products of the collateral are also covered.

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es)) -

- crops growing or to be grown on -
- goods which are or are to become fixtures on -
- minerals or the like (including oil and gas) as extracted on -
- accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:

Street Address:

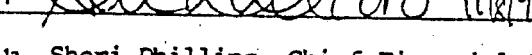
Described at Book \_\_\_\_\_ of (check one)  Deeds  Mortgages, at Page(s) \_\_\_\_\_  
for \_\_\_\_\_ County. Uniform Parcel Identifier \_\_\_\_\_

Described on Additional Sheet.

Name of record owner (required only if no Debtor has an interest of record):

DEBTOR SIGNATURE(S)

Debtor Signature(s): CCI, Construction Co., Inc.

1  11/8/99

1a Sheri Phillips, Chief Financial Officer

1b

RETURN RECEIPT TO:

Allfirst Bank  
3045 Market Street  
Camp Hill, PA 17011  
ATTN: Craig J. Schwartz  
Mail Code: 014-02-01

## SCHEDULE A

30950307

<u>EQUIP #</u>	<u>DESCRIPTION</u>	<u>S/N#</u>
BH-06	CASE 580L	JJG0235790
L-01	CAT 963B TRACK LOADER	9BL02023
R-07	WACKER RT 820 TRENCH ROLLER	764301040
R-08	WACKER RT 820 TRENCH ROLLER	764401365
SP-02	Morrison Super Screed	990253103
SP-03	Allen / Magic Screed	1271909
TH-03	PETTIBONE TELEHANDLER	GR798
LB-03	10 TON LOWBOY	4KNUZ1622XL160323
LB-04	LOWBOY VALLEY	4Y TLC1222WW002994

EXHIBIT "E"

LAW OFFICES

**GEBHARDT & SMITH LLP**

NINTH FLOOR

THE WORLD TRADE CENTER

BALTIMORE, MARYLAND 21202-3064

BALTIMORE: (410) 752-5830

WASHINGTON: (301) 470-7468

FACSIMILE  
(410) 385-5119

WRITER'S DIRECT DIAL NUMBER:

(410) 385-5100

Writer's E-Mail Address:

lgebh@gebsmith.com

Refer To File No. 18610

February 24, 2000

*Via Facsimile and Federal Express*

4027 1282 2404

CCI CONSTRUCTION CO., INC.  
2500 Old Gettysburg Road  
Camp Hill, Pennsylvania 17011-7307

Attn: John M. Ortenzio, President

RE: \$4,000,000 Unsecured Revolving Line Of Credit and  
\$2,000,000 Secured Equipment Purchase Line of Credit  
Extended By Allfirst Bank To CCI Construction Co., Inc.

Dear Mr. Ortenzio:

This firm represents Allfirst Bank ("Lender"), which has extended to CCI Construction Co., Inc. ("Borrower") (a) a revolving line of credit in the maximum principal amount of \$4,000,000 pursuant to a FILM/Cash Solutions Promissory Note dated March 24, 1999 ("Film Note") and related documents, and (b) a secured equipment purchase line of credit in the stated principal amount of \$2,000,000 pursuant to a Commercial Loan Note ("Commercial Note") and a Security Agreement, both dated November 20, 1998, and related documents. This letter is being sent at the specific request and direction of the Lender.

As a result of the occurrence of various events which are materially adverse to the financial condition of the Borrower, and as a further result of the insolvency of the Borrower, the Lender hereby declares a default under the Commercial Loan Note and under the Security Agreement. In consequence of this declaration of default under the equipment purchase line of credit, the Lender hereby accelerates and declares immediately due and payable all sums presently outstanding and owing under the equipment purchase line of credit.

As a result of the default under the equipment line of credit, the Borrower is, in turn, in default under the cross-default provisions of Section 11 of the FILM Promissory Note, and the Lender hereby declares the default. In consequence of this default the Bank hereby accelerates and demands immediate payment of all sums presently due and owing under the FILM Promissory Note.

Because of the default under the FILM Promissory Note and the Bank's acceleration and demand for immediate payment of the sums due thereunder no further sums will be advanced under the revolving line of credit evidenced by the FILM/Cash Solutions Promissory Note, effective immediately. Any checks or other payments items in transit will not be honored by the Lender.

GEBHARDT & SMITH

CCI CONSTRUCTION CO., INC.

February 24, 2000

Page 2

The total sums presently due and outstanding under the equipment purchase line of credit and the revolving line of credit, respectively, are as follows:

Equipment Purchase Line Of Credit

Principal	\$1,244,116.74
Interest through February 23 2000	\$ 5,237.80
Total	<u>\$ 1,249,354.54</u>
Interest per day thereafter: \$231.54	

Revolving Line Of Credit

Principal	\$2,601,514.01
Interest through February 23, 2000	\$ 26,524.83
Total	<u>\$2,628,038.84</u>
Interest per day thereafter: \$596.18	

As previously stated, the Lender by this letter is demanding immediate payment in full of all sums due and owing to it by the Borrower under both loans. Unless full payment is made by the Borrower immediately upon receipt of this letter, all remedies available to the Lender under applicable law will be pursued without further notice to the Borrower, including the institution of judgment by confession and the enforcement of the Lender's security interest.

This letter is not intended to be a waiver of any rights, remedies, or recourse available to the Lender, nor an election of remedies arising as a result of the defaults or of any other default which may now or hereafter exist with respect to the revolving line of credit and the equipment line of credit. The collection of interest or acceptance of partial payments (that is, less than the total amount due in accordance with the terms of the debt instruments) by the Lender shall not constitute an extension of the maturity date of the revolving line of credit or equipment line of credit or a waiver of the Lender's acceleration of the indebtedness evidenced by the respective debt instruments or of any other rights under the loan documents.

Very truly yours,

Lawrence J. Gebhardt

LJG/dls

cc: Gerard L. Elias, SVP

- ALLFIRST BANK

Robert E. Chernicoff, Esquire

- CUNNINGHAM & CHERNICOFF, P.C.

**EXHIBIT "F"**



allfirst

CCI CONSTRUCTION INC  
P.O. BOX 8800

CAMP HILL PA 17001-8800

OP

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Page 1 of 15

## Corporate Checking

February 1, 2000 thru February 29, 2000

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

### Activity Summary

Avg daily ledger balance	-46,616.06	Balance on 01/31	\$323,137.00
		000006 deposits	1,246,518.82 ✓
		000373 checks/list post	-5,962,458.45 ✓
		Funds transfers (net)	5,260,757.03 ✓
		Other credits	754,545.47 ✓
		Other debits	-1,807,463.58
		Balance on 02/29	-184,963.71

### Deposits

Date	Amount	Serial Number	Reference Number	Date	Amount	Serial Number	Reference Number
02/07	\$356,193.16	021399709		02/15	\$482,605.52	023457020	
02/11	14,000.00	021318866		02/16	22,277.92	021226319	
02/14	359,995.26	021680603		02/23	11,446.96	021189594	
							\$1,246,518.82 Deposits Total

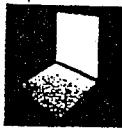
### Checks/List Post

\* Denotes missing sequence number

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000058719	\$134.14	02/16	020559045	0000059593 *	\$10.00	02/10	020685116
0000059471 *	11,468.06	02/22	021659050	0000059624 *	145.82	02/02	021417752
0000059491 *	863.08	02/01	018640070	0000059723 *	72.48	02/14	021480092
0000059492	137.27	02/24	020150693	0000059731 *	5.21	02/16	021066427
0000059522 *	37.33	02/01	021251518	0000059733 *	9,482.40	02/08	021528187
0000059534 *	176.80	02/04	021859301	0000059756 *	5.18	02/16	021044002
0000059572 *	144.20	02/24	021256353	0000059780 *	432.00	02/18	020090527

## Checks/List Post - continued

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000059821 *	\$1,530.00	02/10	021023485	0000060083 *	\$323.66	02/04	021873940
0000059847 *	8,917.62	02/04	021833494	0000060089 *	133.20	02/02	021460364
0000059862 *	1,848.00	02/02	021464629	0000060090	220.00	02/01	021199169
0000059870 *	2,940.91	02/01	021229418	0000060099 *	9,742.50	02/03	021658364
0000059902 *	425.56	02/10	012580493	0000060101 *	3,403.02	02/02	021486146
0000059930 *	250.00	02/03	021645818	0000060113 *	269.26	02/01	021251708
0000059945 *	595.44	02/07	021227053	0000060116 *	30.00	02/02	021473280
0000059946	558.70	02/09	021771347	0000060121 *	138,006.50	02/04	021863600
0000059947	50.01	02/01	021204991	0000060125 *	564.00	02/01	021225055
0000059950 *	582.23	02/14	021515121	0000060127 *	525.00	02/02	016072897
0000059952 *	757.42	02/09	021717045	0000060142 *	305.28	02/01	021268042
0000059956 *	2,190.01	02/04	021869236	0000060151 *	481.47	02/03	021613302
0000059966 *	206,758.00	02/02	021470156	0000060155 *	25,307.10	02/23	012523451
0000059971 *	100.00	02/02	021443229	0000060159 *	2,561.57	02/01	021270671
0000059972	154,138.35	02/01	014238290	0000060170 *	234,701.20	02/07	016839918
0000059976 *	2,673.40	02/09	021774955	0000060172 *	1,668.50	02/01	021243309
0000059977	1,982.17	02/04	021826635	0000060173	3,280.00	02/01	021182426
0000059984 *	649,978.16	02/02	021473290	0000060177 *	601.65	02/04	021812284
0000059985	188.94	02/04	021859226	0000060183 *	6,677.50	02/01	021266003
0000059988 *	9,881.45	02/02	021466760	0000060184	157.38	02/16	012822153
0000059994 *	369.84	02/01	014238190	0000060189 *	5,038.90	02/10	021045858
0000059996 *	7,645.74	02/01	021269560	0000060203 *	9,025.00	02/17	023490292
0000059998 *	300.00	02/02	021443228	0000060204	36,814.07	02/18	021536924
0000059999	33,669.50	02/03	021656270	0000060206 *	557.16	02/01	021239588
0000060006 *	148,539.15	02/03	021682359	0000060209 *	333.79	02/07	021159406
0000060007	11,700.00	02/03	021682360	0000060210	2,079.00	02/07	021159405
0000060010 *	6,226.76	02/03	021661330	0000060212 *	705.66	02/11	021196149
0000060015 *	31.00	02/01	014239195	0000060213	110,257.00	02/08	021529598
0000060018 *	834.31	02/03	021668574	0000060217 *	283,500.00	02/16	021045031
0000060019	11,746.25	02/03	021655676	0000060221 *	906.89	02/09	021717044
0000060020	450.00	02/03	021645316	0000060222	47,630.60	02/07	021268327
0000060021	155.70	02/02	021443227	0000060223	7,885.08	02/28	012730608
0000060023 *	3,610.00	02/25	020342030	0000060224	2,034.75	02/01	021249126
0000060026 *	237.68	02/02	021443226	0000060225	6,217.31	02/07	021227559
0000060037 *	74.32	02/02	021479041	0000060226	189,513.60	02/02	021473343
0000060053 *	136.43	02/01	021239589	0000060227	14.32	02/10	021891721
0000060055 *	210.00	02/10	021045860	0000060228	7,823.70	02/09	021761571
0000060080 *	195.72	02/02	021479593	0000060229	6,997.65	02/04	018819885
0000060081	112,188.80	02/01	021182531	0000060230	5,850.00	02/04	021864136



allfirst

Page 3 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

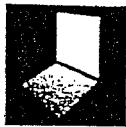
For assistance call  
The Financial Center  
1-800-220-6004

## Checks/List Post - continued

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000060231	\$57.73	02/08	018305375	0000060267 *	\$39.68	02/08	021548529
0000060232	6,531.89	02/11	021223990	0000060268	4,304.54	02/02	021473532
0000060233	131.25	02/02	021490918	0000060269	7,767.90	02/09	021748654
0000060234	251.00	02/09	021733131	0000060270	2,367.31	02/07	018482927
0000060235	46.96	02/07	021231024	0000060271	12,290.48	02/02	020352567
0000060236	24,327.00	02/04	012281395	0000060272	4,226.00	02/11	021227547
0000060237	146.51	02/08	021563985	0000060273	3,886.65	02/02	021481668
0000060238	15,795.00	02/03	016388967	0000060274	12,481.14	02/02	021417634
0000060239	174.70	02/08	021537911	0000060275	5,068.95	02/03	021653141
0000060240	58.95	02/07	095792742	0000060276	60.00	02/02	021445696
0000060241	2,718.05	02/03	021669955	0000060277	30,475.80	02/02	012583532
0000060242	1,603.54	02/03	021652837	0000060278	12,034.60	02/07	021231197
0000060243	34,263.00	02/07	021257039	0000060279	124,454.20	02/04	014215052
0000060244	180.55	02/09	021747030	0000060280	315,000.00	02/04	021848523
0000060245	2,258.66	02/02	016048001	0000060281	492.47	02/08	021474168
0000060246	24,228.45	02/03	021654728	0000060283 *	5,419.07	02/07	021248360
0000060247	58,724.84	02/03	021654729	0000060284	815.97	02/07	021215066
0000060248	2,406.84	02/14	021426801	0000060285	4,857.00	02/11	018084410
0000060249	24,003.00	02/09	021745546	0000060286	21,600.00	02/11	021196215
0000060250	7,449.30	02/22	018715133	0000060305 *	3,127.50	02/18	021365721
0000060251	24.38	02/09	021745608	0000060309 *	17.00	02/17	016677794
0000060252	1,291.00	02/03	021611618	0000060311 *	502.20	02/24	020150694
0000060253	478.01	02/24	021297527	0000060312	15.45	02/22	021661049
0000060254	513.98	02/02	021426456	0000060315 *	260.00	02/18	021371903
0000060255	19,135.80	02/10	021054933	0000060320 *	20.00	02/18	021388819
0000060256	13,624.56	02/04	021832799	0000060324 *	265.35	02/18	021412189
0000060257	13.45	02/01	021226994	0000060327 *	534.57	02/24	021314140
0000060258	5,733.00	02/14	021520446	0000060330 *	130.12	02/22	021665606
0000060259	550.00	02/01	021222273	0000060331	603.13	02/24	021312189
0000060260	57.00	02/04	018762099	0000060349 *	54.50	02/22	021671017
0000060261	24,898.17	02/07	021182617	0000060352 *	749.08	02/18	018469447
0000060262	5,818.82	02/24	021286450	0000060356 *	832.99	02/14	021680602
0000060263	12,233.26	02/07	021245832	0000060358 *	940.68	02/18	021381387
0000060264	4,887.00	02/22	021623007	0000060360 *	150.00	02/22	021617804
0000060265	31,084.00	02/04	021853299	0000060363 *	147.65	02/25	021455909

## Checks/List Post - continued

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000060364	\$619.63	02/18	021390951	0000060461	\$1,442.12	02/22	021665661
0000060365	21,353.64	02/15	021868441	0000060464 *	99.36	02/22	021650709
0000060369 *	18.45	02/23	021102338	0000060473 *	68.90	02/23	021063728
0000060370	195.00	02/18	020052479	0000060475 *	6.06	02/16	021008470
0000060371	72,923.73	02/17	023538623	0000060490 *	2,000.00	02/24	021315946
0000060372	8,330.28	02/23	012164783	0000060491	2,829.75	02/24	021315947
0000060372	8,330.28	02/28	012041597	0000060492	53,750.10	02/15	021804284
0000060375 *	184.00	02/22	021623412	0000060499 *	16.96	02/17	023504566
0000060376	75.05	02/17	023525046	0000060502 *	73.19	02/28	021771082
0000060378 *	2,253.09	02/16	021007079	0000060505 *	90.95	02/22	021638989
0000060379	1,194.47	02/16	018725929	0000060507 *	5,017.80	02/17	023543300
0000060380	4,146.51	02/22	021666282	0000060518 *	76.27	02/23	021089102
0000060382 *	2,217.52	02/18	020088643	0000060523 *	9,206.35	02/22	021609313
0000060387 *	8,266.67	02/11	021329631	0000060524	125.55	02/18	021412655
0000060391 *	67.25	02/24	021330426	0000060526 *	180.36	02/22	021585578
0000060392	584.52	02/18	021365072	0000060528 *	110.32	02/29	021139936
0000060393	70.50	02/18	021374810	0000060534 *	2,574.68	02/17	023492647
0000060395 *	450.00	02/22	021617805	0000060535	16,748.11	02/22	016215691
0000060403 *	43.05	02/16	021008954	0000060537 *	11,935.02	02/22	021648920
0000060404	369.70	02/17	016682361	0000060538	210.31	02/22	021623833
0000060407 *	60.35	02/22	012549378	0000060542 *	38.16	02/23	021086433
0000060408	177.17	02/15	023456939	0000060557 *	95.91	02/24	021310408
0000060411 *	2,614.80	02/22	021667877	0000060564 *	102.10	02/24	021316175
0000060412	374.80	02/22	021656937	0000060573 *	1,871.00	02/18	014545481
0000060417 *	39.57	02/22	021661036	0000060580 *	176.40	02/23	021050615
0000060418	1,575.00	02/22	016513167	0000060588 *	214.62	02/24	021319462
0000060419	284.41	02/24	012578174	0000060590 *	374.60	02/18	020873737
0000060435 *	225.00	02/22	021629257	0000060597 *	4,819.99	02/18	021413115
0000060436	233.55	02/22	021617807	0000060598	2,818.28	02/18	021414601
0000060442 *	13.04	02/28	021739640	0000060599	967.24	02/17	023486115
0000060445 *	118.84	02/22	021617806	0000060601 *	180.00	02/18	020052467
0000060448 *	1,786.00	02/22	021640471	0000060602	136.78	02/18	020052458
0000060449	243.00	02/15	021874350	0000060603	255.00	02/18	020052457
0000060450	19,708.54	02/15	023481348	0000060607 *	5,092.60	02/16	021030048
0000060453 *	68.84	02/18	021420759	0000060610 *	221.60	02/17	023532529
0000060455 *	344.93	02/29	018892342	0000060612 *	72.08	02/17	023537629
0000060458 *	415.52	02/18	021384064	0000060613	10,748.49	02/22	012549105
0000060459	907.60	02/17	023502796	0000060614	1,766.97	02/18	020051666
0000060460	111.48	02/23	021093727	0000060622 *	4,882.40	02/17	023525242



allfirst

Page 5 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

## Checks/List Post - continued

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000060624 *	\$65.00	02/23	021093603	0000060687	\$6,300.00	02/22	021807398
0000060625	615.75	02/22	021588840	0000060688	2,230.00	02/22	021807400
0000060628 *	1,200,000.00	02/11	021329643	0000060689	500.00	02/22	021807399
0000060634 *	1,380.00	02/24	021327674	0000060690	9,090.00	02/28	021678282
0000060635	39.68	02/24	021300253	0000060692 *	540.24	02/29	021088215
0000060636	6,900.00	02/24	014440388	0000060693	7,817.85	02/25	021605076
0000060637	7,869.60	02/24	021304829	0000060694	2,940.00	02/24	023061363
0000060638	73,632.29	02/29	021107389	0000060695	58.81	02/28	021721294
0000060639	69,698.70	02/16	021144071	0000060696	23.20	02/28	021724990
0000060640	2,172.35	02/17	021314246	0000060697	21.70	02/29	018842714
0000060641	78,279.05	02/18	021424951	0000060699 *	77.85	02/25	021441722
0000060642	690.00	02/18	021424950	0000060702 *	76.84	02/29	021121839
0000060643	69,005.50	02/17	023535605	0000060706 *	10,400.00	02/29	021107390
0000060644	4,855.50	02/23	021094899	0000060707	2,703.00	02/28	021745303
0000060646 *	3,965.65	02/28	021759601	0000060708	1,076.41	02/28	021746980
0000060648 *	107.42	02/18	021365654	0000060709	29.00	02/29	021103365
0000060657 *	17,100.00	02/25	021471675	0000060710	37,800.00	02/28	021678350
0000060660 *	104.16	02/28	021721464	0000060711	3,947.25	02/28	021678351
0000060664 *	445.01	02/28	021730911	0000060712	8,064.27	02/28	021867537
0000060665	1,486.66	02/24	018738706	0000060714 *	24,480.00	02/29	021124064
0000060665	1,486.66	02/28	012833316	0000060716 *	203.16	02/24	021278956
0000060669 *	16,300.00	02/23	021189314	0000060717	665.33	02/29	021134476
0000060670	16,976.34	02/23	020744570	0000060719 *	1,645.35	02/24	021315949
0000060671	261.92	02/22	021003710	0000060720	182,733.35	02/24	021315948
0000060673 *	2,002.00	02/28	021693829	0000060721	23.85	02/24	021262411
0000060674	50.00	02/25	021441724	0000060723 *	833.44	02/24	021262397
0000060675	378.56	02/29	021117205	0000060724	245.87	02/24	021262396
0000060676	45,323.62	02/23	021170760	0000060725	38.90	02/24	021262400
0000060676	45,323.62	02/25	012419255	0000060726	22.29	02/24	021262401
0000060678 *	65.00	02/28	012694765	0000060727	780.71	02/24	021262406
0000060681 *	14,528.47	02/28	021715278	0000060728	105.84	02/24	021262408
0000060682	16,658.76	02/22	021003709	0000060729	464.81	02/24	021262398
0000060684 *	25,110.00	02/25	021476442	0000060730	30.00	02/24	021262403
0000060685	201.36	02/25	021471502	0000060731	149.09	02/24	021262409
0000060686	150.00	02/25	021441723	0000060733 *	116.13	02/24	021262404

## Checks/List Post - continued

Serial Number	Amount	Date	Reference Number	Serial Number	Amount	Date	Reference Number
0000060734	\$101.13	02/24	021262402	0000060784	\$1,112.01	02/23	021094983
0000060735	209.34	02/24	021262407	0000060785	700.66	02/25	018035298
0000060736	842.14	02/24	021262399	0000060786	18.55	02/29	018841993
0000060737	532.06	02/24	021262395	0000060787	2,478.09	02/29	021125890
0000060739 *	309.53	02/24	021262410	0000060793 *	260.23	02/24	012094454
0000060740	33.04	02/24	021262405	0000060793	260.23	02/29	018319725
0000060742 *	133.27	02/28	021735671	0000060794	267.14	02/28	021737992
0000060743	136.49	02/29	021131591	0000060795	8.84	02/29	021125992
0000060744	12,347.31	02/24	021302776	0000060796	1,380.36	02/28	021629643
0000060746 *	769.26	02/25	021457527	0000060799 *	154.00	02/28	021693828
0000060748 *	9,833.36	02/25	021528449	0000060800	43,060.72	02/25	021453137
0000060750 *	9,648.00	02/28	021772418	0000060801	37.50	02/28	021708581
0000060754 *	133.16	02/28	021705980	0000060802	82.50	02/28	021708582
0000060755	1,626.39	02/24	021270459	0000060803	37.50	02/28	021708583
0000060756	199.35	02/23	021164243	0000060804	199.50	02/28	021708584
0000060757	35,000.00	02/24	021297204	0000060805	199.50	02/28	021708585
0000060758	134.63	02/29	021120043	0000060806	37.50	02/28	021708587
0000060760 *	172.50	02/28	021752843	0000060807	82.50	02/28	021708586
0000060761	11,874.49	02/28	021751147	0000060808	283.50	02/28	021745304
0000060764 *	1,476.44	02/25	021414158	0000060810 *	1,214.00	02/29	021286520
0000060767 *	29.61	02/29	021159191	0000060813 *	241.27	02/25	021425743
0000060768	15,625.27	02/23	021016761	0000060814	1,084.28	02/25	021425745
0000060772 *	225.01	02/28	021741548	0000060815	645.53	02/25	021425744
0000060773	242.63	02/28	021757634	0000060817 *	32.55	02/25	021528450
0000060774	4,590.00	02/25	021469590	0000060818	184.01	02/29	021140756
0000060775	1,456.48	02/24	021290313	0000060819	41.15	02/28	021679796
0000060777 *	60.00	02/28	012694760	0000060823 *	475.30	02/24	021263944
0000060778	68.39	02/28	012694761	0000060827 *	241.77	02/29	021112313
0000060780 *	85.00	02/28	012694768	0000060828	247.00	02/29	021154434
0000060781	46.16	02/28	012694769	0000060829	15.31	02/24	021295610
0000060782	5,113.00	02/28	021676415	0000060830	540.00	02/25	021425742
0000060783	310.24	02/28	021737263		\$5,962,458.45		Checks Total



allfirst

Page 7 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

## Funds Transfers

Date	Description	Amount
02/01	ACH CREDIT 100019544 COMMONWEALTH EDIPAYMENT T0267873 15460017450008CCI CONSTRUCTION20000315992143 SWEEP LOAN PAYMENT ABS-BALANCE DEBIT ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	\$1,889,998.00 ✓ -1,833,640.45 + -28,791.59 +
02/02	ACH DEBIT 100013172 IRS USATAXPYMT 220003363240131 3387702000CCI CONSTRUCTION CO 20000326405401 SWEEP LOAN ADVANCE ABS-BALANCE CREDIT ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-60,383.54 + 1,148,974.12 ✓ -12,508.41 +
02/03	ACH CREDIT 100025567 AGR V TREAS 310 MISC PAY 251587897124000 3101036151CCI CONSTRUCTION CO.20000347192997 SWEEP LOAN PAYMENT ABS-BALANCE DEBIT ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	905,785.54 ✓ -572,299.55 + -416.22 +
02/04	ACH CREDIT 100020762 36 TREAS 220 MISC PAY 251587897360012 3111036183C I CONST CO INC 20000357377916 SWEEP LOAN PAYMENT ABS-BALANCE DEBIT ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	853,269.83 ✓ -109,375.10 + -70,112.97 +

## Funds Transfers - continued

Date	Description	Amount
02/07	SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	\$399,049.51 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-15,355.04 ✗
02/08	SWEEP LOAN PAYMENT ABS-BALANCE DEBIT	-217,078.14 ✗
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-17,039.37 ✗
02/09	ACH CREDIT 100011006 PA TREASURY DEPT PAYROLL 000000000 1236003133CCI CONSTRUCTION CO 20000387941462 ACH DEBIT 100011008 IRS USATAXPYMT 220004080406125 3387702000CCI CONSTRUCTION CO 20000398362715 SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	750.00
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	103,619.93 ✓
02/10	SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	32,392.97 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-6,028.39 ✗
02/11	SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	1,301,826.10 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-69,638.88 ✗
02/14	SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	22,133.21 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-12,505.93 ✗
02/15	SWEEP LOAN PAYMENT ABS-BALANCE DEBIT	-242,960.14 ✗



allfirst

Page 9 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

## Funds Transfers - continued

Date	Description	Amount
02/15	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-20,936.27 X
02/16	ACH DEBIT 100015211 IRS USATAXPYMT 220004709567044 3387702000CCI CONSTRUCTION CO 20000461020730 ACH DEBIT 100015213 IRS USATAXPYMT 220004766633321 3387702000CCI CONSTRUCTION CO 20000471178710 SWEEP LOAN PAYMENT ABS-BALANCE DEBIT	-51,390.43 ✓ -120.35 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-6,948.97 X
02/17	SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	152,360.75 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-1,985.06 X
02/18	ACH CREDIT 100021220 PA TREASURY DEPT PENNDOT 000000000 1236003133CCI CONSTRUCTION CO.20000471672591 SWEEP LOAN ADVANCE ABS-BALANCE CREDIT	2,796.72 ✓ 197,885.64 ✓
	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-66,731.24 X
02/22	ACH CREDIT 100017469 AGR V TREAS 310 MISC PAY 251587897124000 3101036151CCI CONSTRUCTION CO.20000532267792 SWEEP LOAN PAYMENT ABS-BALANCE DEBIT	634,066.54 ✓ -510,840.84 ✓

Page 10 of 15

## Funds Transfers - continued

Date	Description	Amount
02/22	ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-10,035.35 ✓
02/23	ACH DEBIT 100014538 IRS USATAXPYMT 220005426900881 3387702000CCI CONSTRUCTION CO 20000532778926 ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-51,035.91 ✓
02/24	ACH CREDIT 100009801 PA TREASURY DEPT PAYROLL 000000000 1236003133CCI CONSTRUCTION CO 20000532869279 ACH DEBIT REVERSAL-NSF 410076706 ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	638,911.65 ✓
02/25	ACH CREDIT 100018593 COMMONWEALTH EDIPAYMENT T0272412 15460017450008CCI CONSTRUCTION20000553608270 ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	1,167,539.00 ✓
02/28	ACH DEBIT 100013924 COMMONWEALTH REVERSAL T0272412 15460017450008CCI CONSTRUCTION20000593911056 ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	-1,167,539.00 ✓
02/29	ACH DEBIT REVERSAL-NSF 410028436 ZERO BAL TRANSFER DB 28864522 ZBA TRANSFER TO 0028864522	1,167,539.00 ✓
	Funds Transfers Total (net)	\$5,260,757.03

## Other Credits

Date	Description	Amount
02/24	CREDIT OVERRIDE 01257 CREDIT FOR (42) RETURNED CHECKS ON ACCT. 28864522 POSTED 02/ 23/00.	\$21,042.22



allfirst

Page 11 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4For assistance call  
The Financial Center  
1-800-220-6004

## Other Credits - continued

Date	Description	Amount
02/24	DEBIT REVERSAL - NSF 60155 410076707	\$25,307.10
02/24	DEBIT REVERSAL - NSF 60369 410076708	18.45
02/24	DEBIT REVERSAL - NSF 60372 410076709	8,330.28
02/24	DÉBIT REVERSAL - NSF 60460 410076710	111.48
02/24	DEBIT REVERSAL - NSF 60473 410076711	68.90
02/24	DEBIT REVERSAL - NSF 60518 410076712	76.27
02/24	DEBIT REVERSAL - NSF 60542 410076713	38.16
02/24	DEBIT REVERSAL - NSF 60580 410076714	176.40
02/24	DEBIT REVERSAL - NSF 60624 410076715	65.00
02/24	DEBIT REVERSAL - NSF 60644 410076716	4,855.50
02/24	DEBIT REVERSAL - NSF 60669 410076717	16,300.00
02/24	DEBIT REVERSAL - NSF 60670 410076718	16,976.34
02/24	DEBIT REVERSAL - NSF 60676 410076719	45,323.62
02/24	DEBIT REVERSAL - NSF 60756 410076720	199.35
02/24	DEBIT REVERSAL - NSF 60768 410076721	15,625.27
02/24	DEBIT REVERSAL - NSF 60784 410076722	1,112.01
02/25	CREDIT OVERRIDE 01745	8,759.03
	CREDIT FOR (16) RETURNED CHECKS POSTING TO ACCT. 28864522 ON 02/24/00.	
02/25	DEBIT REVERSAL - NSF 59492 410096098	137.27
02/25	DEBIT REVERSAL - NSF 59572 410096099	144.20
02/25	DEBIT REVERSAL - NSF 60253 410096100	478.01
02/25	DEBIT REVERSAL - NSF 60262 410096101	5,818.82
02/25	DEBIT REVERSAL - NSF 60311 410096102	502.20
02/25	DEBIT REVERSAL - NSF 60327 410096103	534.57
02/25	DEBIT REVERSAL - NSF 60331 410096104	603.13
02/25	DEBIT REVERSAL - NSF 60391 410096105	67.25
02/25	DEBIT REVERSAL - NSF 60419 410096106	284.41
02/25	DEBIT REVERSAL - NSF 60490 410096107	2,000.00
02/25	DEBIT REVERSAL - NSF 60491 410096108	2,829.75

## Other Credits - continued

Date	Description	Amount
02/25	DEBIT REVERSAL - NSF 60557 410096109	\$95.91
02/25	DEBIT REVERSAL - NSF 60564 410096110	102.10
02/25	DEBIT REVERSAL - NSF 60588 410096111	214.62
02/25	DEBIT REVERSAL - NSF 60634 410096112	1,380.00
02/25	DEBIT REVERSAL - NSF 60635 410096113	39.68
02/25	DEBIT REVERSAL - NSF 60636 410096114	6,900.00
02/25	DEBIT REVERSAL - NSF 60637 410096115	7,869.60
02/25	DEBIT REVERSAL - NSF 60665 410096116	1,486.56
02/25	DEBIT REVERSAL - NSF 60694 410096117	2,940.00
02/25	DEBIT REVERSAL - NSF 60716 410096118	203.16
02/25	DEBIT REVERSAL - NSF 60719 410096119	1,645.35
02/25	DEBIT REVERSAL - NSF 60720 410096120	182,733.35
02/25	DEBIT REVERSAL - NSF 60721 410096121	23.85
02/25	DEBIT REVERSAL - NSF 60723 410096122	833.44
02/25	DEBIT REVERSAL - NSF 60724 410096123	245.87
02/25	DEBIT REVERSAL - NSF 60725 410096124	38.90
02/25	DEBIT REVERSAL - NSF 60726 410096125	22.29
02/25	DEBIT REVERSAL - NSF 60727 410096126	780.71
02/25	DEBIT REVERSAL - NSF 60728 410096127	105.84
02/25	DEBIT REVERSAL - NSF 60729 410096128	464.81
02/25	DEBIT REVERSAL - NSF 60730 410096129	30.00
02/25	DEBIT REVERSAL - NSF 60731 410096130	149.09
02/25	DEBIT REVERSAL - NSF 60733 410096131	116.13
02/25	DEBIT REVERSAL - NSF 60734 410096132	101.13
02/25	DEBIT REVERSAL - NSF 60735 410096133	209.34
02/25	DEBIT REVERSAL - NSF 60736 410096134	842.14
02/25	DEBIT REVERSAL - NSF 60737 410096135	532.06
02/25	DEBIT REVERSAL - NSF 60739 410096136	309.53
02/25	DEBIT REVERSAL - NSF 60740 410096137	33.04
02/25	DEBIT REVERSAL - NSF 60744 410096138	12,347.31
02/25	DEBIT REVERSAL - NSF 60755 410096139	1,626.39
02/25	DEBIT REVERSAL - NSF 60757 410096140	35,000.00
02/25	DEBIT REVERSAL - NSF 60775 410096141	1,456.48
02/25	DEBIT REVERSAL - NSF 60793 410096142	260.23
02/25	DEBIT REVERSAL - NSF 60823 410096143	475.30



allfirst

Page 13 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

## Other Credits - continued

Date	Description	Amount
02/25	DEBIT REVERSAL - NSF 60829 410096144	\$15.31
02/28	CREDIT OVERRIDE 02793 CREDIT FOR (09) RETURNED CHECKS POSTING TO ACCT. 28864522 ON 02/25/00.	4,172.22
02/28	DEBIT REVERSAL - NSF 60023 410034917	3,610.00
02/28	DEBIT REVERSAL - NSF 60363 410034918	147.65
02/28	DEBIT REVERSAL - NSF 60657 410034919	17,100.00
02/28	DEBIT REVERSAL - NSF 60674 410034920	50.00
02/28	DEBIT REVERSAL - NSF 60676 410034921	45,323.62
02/28	DEBIT REVERSAL - NSF 60684 410034922	25,110.00
02/28	DEBIT REVERSAL - NSF 60685 410034923	201.36
02/28	DEBIT REVERSAL - NSF 60686 410034924	150.00
02/28	DEBIT REVERSAL - NSF 60693 410034925	7,817.85
02/28	DEBIT REVERSAL - NSF 60699 410034926	77.85
02/28	DEBIT REVERSAL - NSF 60746 410034927	769.26
02/28	DEBIT REVERSAL - NSF 60748 410034928	9,833.36
02/28	DEBIT REVERSAL - NSF 60764 410034929	1,476.44
02/28	DEBIT REVERSAL - NSF 60774 410034930	4,590.00
02/28	DEBIT REVERSAL - NSF 60785 410034931	700.66
02/28	DEBIT REVERSAL - NSF 60800 410034932	43,060.72
02/28	DEBIT REVERSAL - NSF 60813 410034933	241.27
02/28	DEBIT REVERSAL - NSF 60814 410034934	1,084.28
02/28	DEBIT REVERSAL - NSF 60815 410034935	645.53
02/28	DEBIT REVERSAL - NSF 60817 410034936	32.55
02/28	DEBIT REVERSAL - NSF 60830 410034937	540.00
02/29	CREDIT OVERRIDE 01312 CREDIT FOR (34) RETURNED CHECKS POSTING TO ACCOUNT #28864522 ON 02/28/00.	15,820.26
02/29	DEBIT REVERSAL - NSF 60223 410028437	7,885.08

## Other Credits - continued

Date	Description	Amount
02/29	DEBIT REVERSAL - NSF 60372 410028438	\$8,330.28
02/29	DEBIT REVERSAL - NSF 60442 410028439	13.04
02/29	DEBIT REVERSAL - NSF 60502 410028440	73.19
02/29	DEBIT REVERSAL - NSF 60646 410028441	3,965.65
02/29	DEBIT REVERSAL - NSF 60660 410028442	104.16
02/29	DEBIT REVERSAL - NSF 60664 410028443	445.01
02/29	DEBIT REVERSAL - NSF 60665 410028444	1,486.66
02/29	DEBIT REVERSAL - NSF 60673 410028445	2,002.00
02/29	DEBIT REVERSAL - NSF 60678 410028446	65.00
02/29	DEBIT REVERSAL - NSF 60681 410028447	14,528.47
02/29	DEBIT REVERSAL - NSF 60690 410028448	9,090.00
02/29	DEBIT REVERSAL - NSF 60695 410028449	58.81
02/29	DEBIT REVERSAL - NSF 60696 410028450	23.20
02/29	DEBIT REVERSAL - NSF 60707 410028451	2,703.00
02/29	DEBIT REVERSAL - NSF 60708 410028452	1,076.41
02/29	DEBIT REVERSAL - NSF 60710 410028453	37,800.00
02/29	DEBIT REVERSAL - NSF 60711 410028454	3,947.25
02/29	DEBIT REVERSAL - NSF 60712 410028455	8,064.27
02/29	DEBIT REVERSAL - NSF 60742 410028456	133.27
02/29	DEBIT REVERSAL - NSF 60750 410028457	9,648.00
02/29	DEBIT REVERSAL - NSF 60754 410028458	133.16
02/29	DEBIT REVERSAL - NSF 60760 410028459	172.50
02/29	DEBIT REVERSAL - NSF 60761 410028460	11,874.49
02/29	DEBIT REVERSAL - NSF 60772 410028461	225.01
02/29	DEBIT REVERSAL - NSF 60773 410028462	242.63
02/29	DEBIT REVERSAL - NSF 60777 410028463	60.00
02/29	DEBIT REVERSAL - NSF 60778 410028464	68.39
02/29	DEBIT REVERSAL - NSF 60780 410028465	85.00
02/29	DEBIT REVERSAL - NSF 60781 410028466	46.16
02/29	DEBIT REVERSAL - NSF 60782 410028467	5,113.00
02/29	DEBIT REVERSAL - NSF 60783 410028468	310.24
02/29	DEBIT REVERSAL - NSF 60794 410028469	267.14
02/29	DEBIT REVERSAL - NSF 60796 410028470	1,380.36
02/29	DEBIT REVERSAL - NSF 60799 410028471	154.00
02/29	DEBIT REVERSAL - NSF 60801 410028472	37.50



allfirst

Page 15 of 15

CCI CONSTRUCTION INC

Account Number  
00288-6451-4

For assistance call  
The Financial Center  
1-800-220-6004

## Other Credits - continued

Date	Description	Amount
02/29	DEBIT REVERSAL - NSF 60802 410028473	\$82.50
02/29	DEBIT REVERSAL - NSF 60803 410028474	37.50
02/29	DEBIT REVERSAL - NSF 60804 410028475	199.50
02/29	DEBIT REVERSAL - NSF 60805 410028476	199.50
02/29	DEBIT REVERSAL - NSF 60806 410028477	37.50
02/29	DEBIT REVERSAL - NSF 60807 410028478	82.50
02/29	DEBIT REVERSAL - NSF 60808 410028479	283.50
02/29	DEBIT REVERSAL - NSF 60819 410028480	41.15
<b>Other Credits Total</b>		<b>\$754,545.47</b>

## Other Debits

Date	Description	Amount
02/15	DEBIT MEMO 023474261	-866.66
02/18	ANALYSIS FEE 430002855	-146.27
02/24	DEBIT MEMO 021399087	-638,911.65
02/25	DEBIT MEMO 021605349	-1,167,539.00
<b>Other Debits Total</b>		<b>-1,807,463.58</b>

## End of Day Ledger Balance

Account balances are updated in the section below only on days when transactions posted to this account.

Date	Balance	Date	Balance	Date	Balance
01/31	\$323,137.00	02/09	.00	02/18	.00
02/01	53,600.00	02/10	.00	02/22	.00
02/02	.00	02/11	.00	02/23	-195,215.30
02/03	.00	02/14	359,995.00	02/24	-272,341.30
02/04	.00	02/15	482,605.00	02/25	-216,932.98
02/07	356,193.00	02/16	22,273.00	02/28	-1,366,133.60
02/08	1,425.00	02/17	4,400.00	02/29	-184,963.71

Average daily ledger balance **-46,616.06**

**EXHIBIT "G"**

PO BOX 62114 BALTIMORE MD 21264-2114

A FRINGEAL AND ANICEST! BILL

ACCOUNT NO. 001-1828-0102598-0001

DUE DATE	02-29-00		.00
BILL DATE	02-28-00	INTEREST DUE	10,821.35
MATURITY DATE	Demand	PRIN/INT/FEE DUE	10,821.35

CCI CONSTRUCTION CO INC  
PO. BOX 8800  
CAMP HILL PA 17011-8800

COMMERCIAL LOAN OPERATIONS  
P O BOX 62114  
BALTIMORE MARYLAND 21264-2114

PLEASE RETAIN BOTTOM PORTION FOR YOUR RECORDS. RETURN TOP WITH YOUR PAYMENT

ALLFIRST BANK  
PO BOX 62114 BALTIMORE MD 21264-2114

\*\*\* COMING DUE NOTICE \*\*\*  
\*\*\*  
\*\*\*

ACCOUNT NO. 001-1828-0102598-000T

DUE DATE 02-29-00      REMIT AMT      \$10,821.35

DATE	TRAN	RATE	ESCROW	DEBITS	CREDITS	BALANCE	DAYS	INTEREST
01-31-00		8.00000						
01-28-00	ADV	8.00000		BAL-FORWARD		2,511,794.47		16,658.76
01-31-00	ADJ			39,844.75		2,551,639.22		
01-31-00	PAMT	8.00000						26.56
02-01-00	INT	8.00000			270,953.77	2,280,685.45		
02-01-00	PAMT	8.00000				2,280,685.45		506.82
02-02-00	INT	8.00000				447,045.00	1	
02-02-00	ADV	8.00000				447,045.00		99.34
02-03-00	INT	8.00000		1,148,974.12		1,596,019.12		
02-03-00	PAMT	8.25000				1,596,019.12	1	354.67
02-03-00	RATE	8.25000			572,299.55	1,023,719.57		
02-04-00	INT	8.25000						
02-04-00	PAMT	8.25000				1,023,719.57	1	234.60
02-07-00	INT	8.25000			109,375.10	914,344.47		
02-07-00	ADV	8.25000				914,344.47	3	628.61
02-08-00	INT	8.25000		399,049.51		1,313,393.98		
02-08-00	PAMT	8.25000				1,313,393.98	1	300.99
02-09-00	INT	8.25000			217,078.14	1,096,315.84		
02-09-00	ADV	8.25000		103,619.93		1,096,315.84	1	251.24
02-10-00	INT	8.25000				1,199,935.77		
02-10-00	ADV	8.25000		32,392.97		1,199,935.77	1	274.99
02-11-00	INT	8.25000				1,232,328.74		
02-11-00	ADV	8.25000		1,301,826.10		1,232,328.74	1	282.41
02-14-00	INT	8.25000				2,534,154.84		
02-14-00	ADV	8.25000		22,133.21		2,534,154.84	3	1,742.23
02-15-00	INT	8.25000				2,556,288.05		
02-15-00	PAMT	8.25000				2,556,288.05	1	585.82
02-16-00	INT	8.25000			242,960.14	2,313,327.91		
02-16-00	PAMT	8.25000				2,313,327.91	1	530.14
02-17-00	INT	8.25000			62,060.29	2,251,267.62		
02-17-00	ADV	8.25000				2,251,267.62	1	515.92
02-18-00	INT	8.25000		152,360.75		2,403,628.37		
02-18-00	ADV	8.25000				2,403,628.37	1	550.83
02-22-00	INT	8.25000		197,885.64		2,601,514.01		
02-22-00	PAMT	8.25000				2,601,514.01	4	2,384.72
02-22-00	PAMT	8.25000			510,840.84	2,090,673.17		16,658.76

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MAR - 2 2000

BALTIMORE MD 21264-2114

ANT NO. 001-1828-0102598-0001  
PAGE 2

02-29-00 .00  
02-28-00 .00  
DEMAND .00

CCI CONSTRUCTION CO INC  
PO . BOX 8800  
CAMP HILL PA 17011-8800

COMMERCIAL LOAN OPERATIONS  
P O BOX 62114  
BALTIMORE MARYLAND 21264-2114

WILFIRST BANK  
PO BOX 62114 BALTIMORE MD 21264-2114

\*\*\*\* COMING DUE NOTICE \*\*\*\*

ACCOUNT NO. 001-1828-0102598-0001

DUE DATE 02-28-00 REMIT AMT \$10,821.35

DATE	TRAN	RATE	ESCROW	DEBITS	CREDITS	BALANCE	DAYS	INTEREST
12-24-00	INT	8.25000				2,090,673.17	2	958.23
12-24-00	PAMT	8.25000			638,911.65	1,451,761.52		
12-25-00	INT	8.25000				1,451,761.52	1	332.70
12-25-00	PAMT	8.25000			1,167,539.00	284,222.52		
12-29-00	INT	8.25000				284,222.52	4	260.53

\*\*\*\*\* 11/13 LOAN SWEEP INT ADJ FOR 11/13-11/16

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BALANCE **284,222.52**  
TOTAL AMOUNT DUE **\$10,821.35** PRINCIPAL = **\$10,821.35** INTEREST = **\$10,821.35**

VENDOR # 40111  
INVOICE #     
INVOICE DATE     
AM:     
P:     
  #     
  7110-9  
DRAFT DATE     
  1

**EXHIBIT "H"**

CCI-Bank Account and Loan Activity for 2/1/00 through 3/31/00  
 Preference and Setoff Search

**Schedule C - Revolver Activity, Daily Balance, Setoff and Preference**

CCI Loans with Affirst Bank			(h) Total Net Loan Balance (Revolver+Cash)						(k) Major Subs. and Suppliers Payments		
Date	Advances	Pay-Down	Balance	Setoff	Insufficiency	Preference					80 Days Total
1/31/00			2,280,886.46		1,867,848.48						
2/1/00	1,833,840.45	447,045.00	389,445.00								268,327.16
2/2/00	1,148,874.12	1,588,019.12	1,588,019.12								1,089,208.70
2/3/00	572,289.55	1,023,719.57	1,023,719.57								314,145.68
2/4/00	108,375.10	914,344.47	914,344.47								326,789.32
2/7/00	399,049.51	1,313,393.98	987,200.98								365,760.83
2/8/00	217,078.14	1,098,316.84	1,094,880.84								119,739.40
2/9/00	103,619.93	1,189,935.77	1,199,936.77								24,003.40
2/10/00	32,392.97	1,232,328.74	1,232,328.74								19,135.80
2/11/00	1,301,828.10	2,534,154.84	2,534,154.84								
2/14/00	22,133.21	2,056,288.05	2,196,283.05								
2/15/00		242,980.14	2,313,327.91								84,812.28
2/16/00		62,080.29	2,251,267.62								353,188.70
2/17/00	152,380.75	2,403,628.37	2,399,228.37								141,828.23
2/18/00	197,886.64	2,601,614.01	2,601,614.01								116,083.12
2/22/00	510,840.84	2,090,873.17	2,090,873.17								
2/23/00		2,090,873.17	2,285,888.47								
2/24/00	638,911.85	1,451,781.52	1,723,858.63								510,840.84
2/25/00	1,167,539.00	284,222.52	501,155.51								877,555.38
2/28/00		284,222.52	1,850,358.13								1,149,752.49
2/28/00			499,166.24								2,317,261.49
			2,122,327.77								2,317,261.49
											108,812.29
											2,339,653.81
3/1/00	-	284,222.52	336,886.38								2,317,261.49
3/7/00											

Notes:

This page reflects the revolver loan and other bank - daily activity and balance.

- (h) The zero balance checking account shows + and - balances on some days.
- (i) Represents the difference between the checking loan balance of 2/18 and balance in subsequent days.
- (j) Loan payoff after 2/18/00.
- (k) Checks in excess of \$10 k that cleared the bank in February.

CCI-Bank Account and Loan Activity for 2/1/00 through 2/29/00  
Preference and Setoff Search

Schedule D - Other AllFirst Loan Balance and Total Setoff

AllFirst Bank			AllFirst Bank			Total		
001-1028-0102404-0100		Pay-Down	Balance		Pay-Down	Balance	Net Loan Balance	Setoff Insufficiency
1/31/00	1,244,118.74			494,315.85		494,315.85	4,894,981.04	
2/1/00	1,244,118.74			494,315.85		494,315.85	3,331,877.59	
2/2/00	1,244,118.74			494,315.85		494,315.85	4,534,451.71	
2/3/00	1,244,118.74			494,315.85		494,315.85	3,982,152.16	
2/4/00	1,244,118.74			494,315.85		494,315.85	3,882,777.08	
2/7/00	1,244,118.74			494,315.85		494,315.85	3,885,833.57	
2/8/00	1,244,118.74			494,315.85		494,315.85	4,033,323.43	
2/8/00	1,244,118.74			494,315.85		494,315.85	4,138,368.36	
2/10/00	1,244,118.74			494,315.85		494,315.85	4,170,781.33	
2/11/00	1,244,118.74			494,315.85		494,315.85	4,272,587.43	
2/14/00	1,244,118.74			494,315.85		494,315.85	3,934,725.64	
2/15/00	1,244,118.74			494,315.85		494,315.85	3,665,155.60	
2/18/00	1,244,118.74			494,315.85		494,315.85	3,987,427.21	
2/17/00	1,244,118.74			494,315.85		494,315.85	4,137,860.88	
2/18/00	1,244,118.74			494,315.85		4,339,946.60		
2/22/00	1,244,118.74			494,315.85		3,829,105.76	510,840.84	
2/23/00	1,244,118.74			494,315.85		4,024,321.06	315,625.54	
2/24/00	1,244,118.74			494,315.85		3,462,391.22	877,655.38	
2/24/00	1,244,118.74			494,315.85		2,239,688.10	2,100,358.50	
2/24/00	1,244,118.74			494,315.85		3,388,788.72	951,157.88	
2/29/00	1,244,118.74			494,315.85		2,207,618.83	2,132,327.77	

CERTIFICATE OF SERVICE

I, Robert E. Chernicoff, Esquire, hereby certify that on January 10, 2000, a true and correct copy of the foregoing COMPLAINT FOR RECOVERY OF PREFERENTIAL TRANSFER PURSUANT TO BANKRUPTCY CODE SECTION 547, OR IN THE ALTERNATIVE, FOR RECOVERY OF IMPROPER SETOFF PURSUANT TO BANKRUPTCY CODE SECTION 553 was served by first-class mail, postage prepaid, on the following:

Office of the U.S. Trustee  
P. O. Box 969  
Harrisburg, PA 17108-0969

Attention: Dana Perkins  
Internal Revenue Service  
Special Procedures Branch  
P. O. Box 628  
Pittsburgh, PA 15230

John J. Condrige, Senior Deputy  
Attorney General  
Office of Attorney General  
Financial Enforcement Section  
Strawberry Square, 15th Floor  
Fourth & Walnut Streets  
Harrisburg, PA 17120

Anne K. Fiorenza, Esquire  
Assistant U.S. Attorney  
P. O. Box 11754  
Harrisburg, PA 17108-1754

PA Department of Revenue  
Bureau of Compliance  
Bankruptcy Division  
Dept. 0946  
Harrisburg, PA 17128-0946

Michael D. Nord, Esquire  
Gebhardt & Smith, LLP  
The World Trade Center  
401 East Pratt Street 9th Floor  
Baltimore, MD 21202-3064

George J. Bachrach, Esquire  
Whiteford, Taylor & Preston, LLP  
7 St. Paul Street  
Baltimore, MD 21202-1626

Gregory L. Daily, Esquire  
Matthew L. Silverstein, Esquire  
Surety Claims Manager  
St. Paul Surety  
P. O. Box 1138  
Baltimore, MD 21203-1138

John M. Ortenzio  
510 Orchard Drive  
Lemoyne, PA 17043

Mark Z. Greenberg, CPA  
Greenberg & Company, P.C.  
765 Poplar Church Road  
Camp Hill, PA 17011

CUNNINGHAM & CHERNICOFF, P.C.

By

  
Robert E. Chernicoff, Esquire

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:21 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 1  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1025991 40 001	209,195.03	.00	2,515,370.54
1026991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1026991 30 001	622,471.59	.00	1,892,898.95
1027991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1027991 30 001	50,965.93	.00	1,841,933.02
1028991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1028991 40 001	56,282.54	.00	1,898,215.56
1029991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1029991 40 001	405,853.43	.00	2,304,068.99
1101991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	

LS0392 This is the first page

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE

=====&gt; PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:47 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 2  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT	TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT	AC FLD			ORG TRAN AMT
- 1101991	40 001	367,528.36	.00	2,671,597.35
1102991		DESC DATA: SWEEP		.00
			TIER 1 RT 7.75000	
- 1102991	40 001	256,127.74	.00	2,927,725.09
1103991		DESC DATA: SWEEP		.00
			TIER 1 RT 7.75000	
- 1103991	40 001	173,975.75	.00	3,101,700.84
1104991		DESC DATA: SWEEP		.00
			TIER 1 RT 7.75000	
- 1104991	40 001	32,626.95	.00	3,134,327.79
1105991		DESC DATA: SWEEP		.00
			TIER 1 RT 7.75000	
- 1105991	30 001	780,576.53	.00	2,353,751.26
1108991 A		DESC DATA: SWEEP		.00
			TIER 1 RT 7.75000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:50 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 3  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49  
 EFF DT TR SEQ PRINCIPAL INTEREST LOAN BALANCE  
 PROC DT AC FLD ORG TRAN AMT  
 ORG TRAN AMT

- 1108991 30 001	1,188,933.15	.00	1,164,818.11
1109991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1109991 40 001	108,940.24	.00	1,273,758.35
1110991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1110991 30 001	129,802.94	.00	1,143,955.41
1112991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1112991 40 001	196,736.76	.00	1,340,692.17
1115991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	
- 1115991 40 001	849,262.36	.00	2,189,954.53
1116991	DESC DATA: SWEEP		.00
		TIER 1 RT 7.75000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:51 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 4  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49  
 EFF DT TR SEQ PRINCIPAL INTEREST LOAN BALANCE  
 PROC DT AC FLD ORG TRAN AMT  
 ORG TRAN AMT

- 1116991 30 001	.00	16,292.71	2,189,954.53
1116991 R *	DESC DATA: *GEN*		16,292.71
OP-ID CL806		TIER 1 RT 8.00000	
- 1116991 30 002	1,370,572.38	.00	819,382.15
1117991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1117991 40 001	354,173.19	.00	1,173,555.34
1118991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1118991 40 001	690,400.77	.00	1,863,956.11
1119991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1119991 40 001	341,496.49	.00	2,205,452.60
1122991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:53 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 5  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1122991 30 001	188,700.64	.00	2,016,751.96
1123991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1123991 30 001	143,561.32	.00	1,873,190.64
1124991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1124991 40 001	471,042.28	.00	2,344,232.92
1126991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1126991 40 001	180,113.61	.00	2,524,346.53
1129991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1129991 40 001	180,908.54	.00	2,705,255.07
1130991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

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S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:55 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 6  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1130991 30 001	134,260.11	.00	2,570,994.96
1201991 A	DESC DATA: SWEEP		.00
- 1201991 30 001	896,851.65	.00	1,674,143.31
1202991 A	DESC DATA: SWEEP		.00
- 1202991 40 001	505,192.27	.00	2,179,335.58
1203991	DESC DATA: SWEEP		.00
- 1203991 40 001	581,188.02	.00	2,760,523.60
1206991	DESC DATA: SWEEP		.00
- 1206991 30 001	505,758.62	.00	2,254,764.98
1207991 A	DESC DATA: SWEEP		.00
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:56 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 7  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49  
 EFF DT TR SEQ PRINCIPAL INTEREST LOAN BALANCE  
 PROC DT AC FLD ORG TRAN AMT

- 1207991 40 001	209,754.70	.00	2,464,519.68
1208991	DESC DATA: SWEEP		.00
- 1208991 30 001	1,070,151.30	.00	1,394,368.38
1209991 A	DESC DATA: SWEEP		.00
- 1209991 40 001	306,514.11	.00	1,700,882.49
1210991	DESC DATA: SWEEP		.00
- 1210991 40 001	229,456.67	.00	1,930,339.16
1213991	DESC DATA: SWEEP		.00
- 1213991 40 001	329,951.79	.00	2,260,290.95
1214991	DESC DATA: SWEEP		.00
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	
	TIER 1 RT	8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:43:59 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 8  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1214991 30 001	435,792.55	.00	1,824,498.40
1215991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1215991 30 001	457,495.47	.00	1,367,002.93
1216991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1216991 30 001	18,602.79	.00	1,348,400.14
1217991 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 1217991 30 001	.00	13,571.16	1,348,400.14
1217991 R *	DESC DATA: *GEN*		13,571.16
OP-ID CL806		TIER 1 RT 8.00000	
- 1217991 40 001	317,523.59	.00	1,665,923.73
1220991	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:01 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 9  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1220991 30 001	492,689.35	.00	1,173,234.38
1221991 A	DESC DATA: SWEEP		.00
- 1221991 30 001	107,765.04	.00	1,065,469.34
1222991 A	DESC DATA: SWEEP		.00
- 1222991 30 001	458,328.87	.00	607,140.47
1223991 A	DESC DATA: SWEEP		.00
- 1223991 40 001	98,268.22	.00	705,408.69
1224991	DESC DATA: SWEEP		.00
- 1224991 40 001	42,984.27	.00	748,392.96
1227991	DESC DATA: SWEEP		.00

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:02 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 10  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 1227991 40 001	177,867.20	.00	926,260.16
1228991	DESC DATA: SWEEP		.00
	TIER 1 RT 8.00000		
- 1228991 40 001	341,296.32	.00	1,267,556.48
1229991	DESC DATA: SWEEP		.00
	TIER 1 RT 8.00000		
- 1229991 40 001	359,920.73	.00	1,627,477.21
1230991	DESC DATA: SWEEP		.00
	TIER 1 RT 8.00000		
- 1230991 40 001	837,607.65	.00	2,465,084.86
1231991	DESC DATA: SWEEP		.00
	TIER 1 RT 8.00000		
- 1231991 40 001	827,466.59	.00	3,292,551.45
0101002	DESC DATA: SWEEP		.00
	TIER 1 RT 8.00000		

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:04 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 11  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PRCC DT AC FLD			ORG TRAN AMT
- 0103002 30 001	222,668.84	.00	3,069,882.61
0104002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0104002 40 001	175,919.79	.00	3,245,802.40
0105002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0105002 30 001	745,764.65	.00	2,500,037.75
0106002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0106002 40 001	128,879.43	.00	2,628,917.18
0107002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0107002 40 001	79,496.30	.00	2,708,413.48
0110002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:11 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 12  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0110002 30 001	326,855.59	.00	2,381,557.89
0111002 A	DESC DATA: SWEEP		.00
- 0111002 30 001	159,724.87	.00	2,221,833.02
0112002 A	DESC DATA: SWEEP		.00
- 0112002 40 001	174,539.78	.00	2,396,372.80
0113002	DESC DATA: SWEEP		.00
- 0113002 30 001	.00	TIER 1 RT 8.00000	2,396,372.80
0114002 *	DESC DATA: *GEN*		11,452.37
OP-ID COMNJB		TIER 1 RT 8.00000	11,452.37
- 0113002 30 002	1,291,625.30	.00	1,104,747.50
0114002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:15 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 13  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0114002 40 001	287,001.48	.00	1,391,748.98
0118002	DESC DATA: SWEEP		.00
- 0118002 30 001	105,191.73	TIER 1 RT 8.00000	1,286,557.25
0119002 A	DESC DATA: SWEEP		.00
- 0119002 40 001	534,258.91	TIER 1 RT 8.00000	1,820,816.16
0120002	DESC DATA: SWEEP		.00
- 0120002 40 001	1,108,904.84	TIER 1 RT 8.00000	2,929,721.00
0121002	DESC DATA: SWEEP		.00
- 0121002 30 001	139,954.17	TIER 1 RT 8.00000	2,789,766.83
0124002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Date: 1/25/2001 Time: 04:43:15 PM

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Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:16 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 14  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT	TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT	AC FLD			ORG TRAN AMT
- 0124002 30 001		500,940.36	.00	2,288,826.47
0125002 A		DESC DATA: SWEEP		.00
			TIER 1 RT 8.00000	
- 0125002 30 001		183,635.66	.00	2,105,190.81
0126002 A		DESC DATA: SWEEP		.00
			TIER 1 RT 8.00000	
- 0126002 40 001		54,989.47	.00	2,160,180.28
0127002		DESC DATA: SWEEP		.00
			TIER 1 RT 8.00000	
- 0127002 40 001		351,614.19	.00	2,511,794.47
0128002		DESC DATA: SWEEP		.00
			TIER 1 RT 8.00000	
- 0128002 40 001		39,844.75	.00	2,551,639.22
0131002		DESC DATA: SWEEP		.00
			TIER 1 RT 8.00000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 16:44:18 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 15  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0131002 30 001	270,953.77	.00	2,280,685.45
0201002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0201002 30 001	1,833,640.45	.00	447,045.00
0202002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0202002 40 001	1,148,974.12	.00	1,596,019.12
0203002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.00000	
- 0203002 30 001	572,299.55	.00	1,023,719.57
0204002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	
- 0204002 30 001	109,375.10	.00	914,344.47
0207002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE D\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S120 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 15:52:39 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 17  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0204002 30 001	109,375.10	.00	914,344.47
0207002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	
- 0207002 40 001	399,049.51	.00	1,313,393.98
0208002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	
- 0208002 30 001	217,078.14	.00	1,096,315.84
0209002 A	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	
- 0209002 40 001	103,619.93	.00	1,199,935.77
0210002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	
- 0210002 40 001	32,392.97	.00	1,232,328.74
0211002	DESC DATA: SWEEP		.00
		TIER 1 RT 8.25000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE \*\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S121 10=STLN\* 11=POLN 12=STPS

Date: 1/25/2001 Time: 03:51:44 PM

C 7765

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 15:52:50 '01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 18  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0211002 40 001	1,301,826.10	.00	2,534,154.84
0214002	DESC DATA: SWEEP		.00
- 0214002 40 001	22,133.21	.00	2,556,288.05
0215002	DESC DATA: SWEEP		.00
- 0215002 30 001	242,960.14	.00	2,313,327.91
0216002 A	DESC DATA: SWEEP		.00
- 0216002 30 001	62,060.29	.00	2,251,267.62
0217002 A	DESC DATA: SWEEP		.00
- 0217002 40 001	152,360.75	.00	2,403,628.37
0218002	DESC DATA: SWEEP		.00
	TIER 1 RT	8.25000	
	TIER 1 RT	8.25000	
	TIER 1 RT	8.25000	
	TIER 1 RT	8.25000	
	TIER 1 RT	8.25000	
	TIER 1 RT	8.25000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE \*\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S121 10=STLN\* 11=POLN 12=STPS

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 15:52:53 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 19  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0218002 40 001	197,885.64	.00	2,601,514.01
0222002	DESC DATA: SWEEP		.00
- 0222002 30 001	.00	TIER 1 RT 8.25000	
0223002 *	DESC DATA: *GEN*	16,658.76	2,601,514.01
OP-ID COMNJB			16,658.76
- 0222002 30 002	510,840.84	.00	2,090,673.17
0223002 A	DESC DATA: SWEEP		.00
- 0224002 30 001	638,911.65	.00	1,451,761.52
0225002 A	DESC DATA:		.00
OP-ID COMJKP		TIER 1 RT 8.25000	
- 0225002 29 001	.00	.00	1,451,761.52
0225002 209	CHNG DATA: 902240015186	TIER 1 RT 8.25000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE \*\* DATE 0000000 PAGE \_\_\_\_  
 =====> PF05=S121 10=STLN\* 11=POLN 12=STPS

Date: 1/25/2001 Time: 03:51:56 PM

C 7767

Page: 1 Document Name: untitled

S150 TRAC LS/2000 ACCUMULATED TRAN LIST 01-25 15:52:57 01/25  
 ASSOC 1 APPL CL BANK 001 BRANCH 0001 PRODUCT DFLT VIEW 99 PAGE 20  
 CCI CONSTRU LN TYPE 3 PYMT MODE 1 MAT DT 12/31/49

EFF DT TR SEQ	PRINCIPAL	INTEREST	LOAN BALANCE
PROC DT AC FLD			ORG TRAN AMT
- 0225002 30 001	1,167,539.00	.00	284,222.52
0228002 A	DESC DATA:		.00
OP-ID COMJKP		TIER 1 RT 8.25000	
- 0306002 29 001	.00	.00	284,222.52
0306002 107	CHNG DATA: 07003		
OP-ID COMMJR		TIER 1 RT 8.25000	
- 0316002 29 001	.00	.00	284,222.52
0316002 209	CHNG DATA: 003130007003		
- 0322002 28 001	.00	TIER 1 RT 8.25000	
0322002	CHNG DATA: N/A-60 11/13 LOAN SWEEP INT		
OP-ID COMDCS		TIER 1 RT 8.25000	
- 0322002 29 001	.00	.00	284,222.52
0322002 033	CHNG DATA: 1		
OP-ID COMDCS		TIER 1 RT 8.25000	

CUSTOMER 0102598 LOAN 0001 PART 0000000 DLR 00000 TYPE \*\* DATE 0000000 PAGE  
 =====> PF05=S121 10=STLN\* 11=POLN 12=STPS

Date: 1/25/2001 Time: 03:51:59 PM

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**Amounts Due Under \$1.2 Million Loan****CCI Construction 0102598**

<u>From</u>	<u>To</u>	<u>Balance</u>	<u>Rate</u>	<u>Basis</u>	<u>Days</u>	<u>Interest Calc</u>
2/11/2000	3/22/2000	\$1,200,000.00	8.25%	360	40	\$ 11,000.00
3/22/2000	5/17/2000	\$1,200,000.00	8.50%	360	56	\$ 15,866.67
5/17/2000	1/4/2001	\$1,200,000.00	9.00%	360	232	\$ 69,600.00
1/4/2001	2/1/2001	\$1,200,000.00	8.50%	360	25	\$ 7,933.33
2/1/2001	3/21/2001	\$1,200,000.00	8.00%	360	48	\$ 12,800.00
3/21/2001	4/19/2001	\$1,200,000.00	7.50%	360	29	\$ 7,250.00
4/19/2001	5/16/2001	\$1,200,000.00	7.00%	360	27	\$ 6,300.00
5/16/2001	6/28/2001	\$1,200,000.00	6.50%	360	43	\$ 9,316.67
6/28/2001	8/22/2001	\$1,200,000.00	6.25%	360	55	\$ 11,458.33
8/22/2001	9/17/2001	\$1,200,000.00	6.00%	360	26	\$ 5,200.00
9/17/2001	10/3/2001	\$1,200,000.00	5.50%	360	16	\$ 2,933.33
10/3/2001	11/7/2001	\$1,200,000.00	5.00%	360	35	\$ 5,833.33
11/7/2001	12/12/2001	\$1,200,000.00	4.50%	360	35	\$ 5,250.00
12/12/2001	5/31/2002	\$1,200,000.00	4.25%	360	170	<u>\$ 24,083.33</u>
						\$ 194,825.00
		\$1,200,000.00	4.25%	360	1	\$ 141.67 Per Diem

**Amounts Due Under Line of Credit****CCI Construction 0102598**

<u>From</u>	<u>To</u>	<u>Balance</u>	<u>Rate</u>	<u>Basis</u>	<u>Days</u>	<u>Interest Calc</u>
2/25/2000	3/22/2000	\$284,222.52	8.25%	360	26	\$ 1,693.49
3/22/2000	5/17/2000	\$284,222.52	8.50%	360	56	\$ 3,758.05
5/17/2000	1/4/2001	\$284,222.52	9.00%	360	232	\$ 16,484.91
1/4/2001	2/1/2001	\$284,222.52	8.50%	360	28	\$ 1,879.03
2/1/2001	3/21/2001	\$284,222.52	8.00%	360	48	\$ 3,031.71
3/21/2001	4/19/2001	\$284,222.52	7.50%	360	29	\$ 1,717.18
4/19/2001	5/16/2001	\$284,222.52	7.00%	360	27	\$ 1,492.17
5/16/2001	6/28/2001	\$284,222.52	6.50%	360	43	\$ 2,206.67
6/28/2001	8/22/2001	\$284,222.52	6.25%	360	55	\$ 2,713.93
8/22/2001	9/17/2001	\$284,222.52	6.00%	360	26	\$ 1,231.63
9/17/2001	10/3/2001	\$284,222.52	5.50%	360	16	\$ 694.77
10/3/2001	11/7/2001	\$284,222.52	5.00%	360	35	\$ 1,381.64
11/7/2001	12/12/2001	\$284,222.52	4.50%	360	35	\$ 1,243.47
12/12/2001	5/31/2002	\$284,222.52	4.25%	360	170	<u>\$ 5,704.19</u>
						\$ 45,232.83
		\$284,222.52	4.25%	360	1	\$ 33.55 Per Diem

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

COPY

ALLFIRST BANK, :  
PLAINTIFF :  
VS : NO: 1:01-CV-786  
JOHN M. ORTENZIO, :  
DEFENDANT :  
:

DEPOSITION OF: SHERI PHILLIPS

TAKEN BY: PLAINTIFF

BEFORE: HILLARY M. HAZLETT, REPORTER  
NOTARY PUBLIC

DATE: MARCH 13, 2002, 10:43 A.M.

PLACE: ALLFIRST BANK BUILDING  
213 MARKET STREET  
14TH FLOOR  
HARRISBURG, PENNSYLVANIA

APPEARANCES:

GEBHARDT & SMITH  
BY: LAWRENCE J. GEBHARDT, ESQUIRE

FOR - PLAINTIFF

BLANK, ROME, COMISKY & McCUALEY, LLP  
BY: EDWARD I. SWICHAR, ESQUIRE

FOR - DEFENDANT

HARTMAN, OSBORNE & JOYCE, P.C.  
BY: MELINDA S. JOYCE, ESQUIRE

FOR - SHERI PHILLIPS

ALSO PRESENT:

JAMIN M. GIBSON  
JOHN M. ORTENZIO



ARCHIVE REPORTING SERVICE

2336 N. Second Street (717) 234-5922  
Harrisburg, PA 17110 FAX (717) 234-6190

1 Q And these were points that you raised with  
2 him or he raised with you first?

3 A I raised them with him.

4 Q Now, was there a cash management feature  
5 with the --

6 A Just back up a minute. I raised them with  
7 him, but the one point he raised was with me.

8 Q What point was that?

9 A That within the 30 days there would be  
10 notice as far as the repayment.

11 Q Was there a cash management feature that  
12 accompanied or was attached or related to the --

13 MR. SWICHAR: Are you referring to  
14 paragraph 6?

15 THE WITNESS: Yes.

16 MR. SWICHAR: Thanks.

17 BY MR. GEBHARDT:

18 Q Was there a cash management feature  
19 associated with the line of credit?

20 A Yes, there was.

21 Q And what was your understanding of how that  
22 cash management feature worked?

23 A We had the line of credit; and as checks  
24 were drawn on our checking account, the money would  
25 come from our line of credit to cover that. If there

1 was excess money, it would be invested and we would  
2 get the income from it.

3 Q Hypothetically, if -- let me rephrase this.  
4 How would customer payments in this 1999  
5 period be made to CCI in relation to the cash  
6 management feature?

7 MR. SWICHAR: May I hear the question back?

8 MS. JOYCE: And you're not talking  
9 hypothetically as you started the last question,  
10 correct?

11 MR. GEBHARDT: No. This is actually how  
12 did customers pay CCI in the 1999 time frame.

13 MR. SWICHAR: I don't need it back.

14 THE WITNESS: It could have been one of two  
15 ways: One, I would write a check; and we would  
16 deposit it in the bank account; or two, as many as  
17 possible had set up on a direct payment through a  
18 wire transfer from their account into ours.

19 We did a lot of government work, and  
20 sometimes it took forever to get it set up. Most of  
21 them, pretty many of them I had set up on wire  
22 transfers that would automatically go into our  
23 account.

24 BY MR. GEBHARDT:

25 Q You set up as many as you could in that

1 fashion?

2 A Yes.

3 Q And that carried through also the 2000  
4 period as of the time you left?

5 A That's correct.

6 Q The wire transfer feature having the CCI  
7 customer wire their payments directly to Allfirst is  
8 something that benefited CCI?

9 A Most definitely.

10 Q If there had been an excess of deposits  
11 over any outstanding balance on the line of credit  
12 that would have given CCI a positive balance --

13 MR. SWICHAR: Objection to the form of the  
14 question. I would first establish if there were ever  
15 an excess.

16 MR. GEBHARDT: Well, let's trace --

17 MR. SWICHAR: Take it out of the world of  
18 hypothetical.

19 BY MR. GEBHARDT:

20 Q In terms of how the cash management feature  
21 worked, if there were less deposits on a given day  
22 than there were checks that CCI had written to pay  
23 bills, what would happen?

24 A If there were less deposits, we would draw  
25 on the line of credit to pay the checks that were in

1 excess.

2 Q And if there were more deposits than there  
3 were checks written to pay bills, what would happen?

4 A They would sweep the account and invest the  
5 money.

6 Q Would I be correct if there was an existing  
7 outstanding balance on the line of credit, that  
8 excess would pay down the line of credit?

9 MS. JOYCE: Object to the form of the  
10 question. You may answer.

11 BY MR. GEBHARDT:

12 Q In other words, if there was an outstanding  
13 balance on the line of credit of \$500,000 and CCI  
14 wrote \$100,000 of checks that were presented on a  
15 specific day but \$150,000 of payments came in from  
16 customers, there would be an excess of \$50,000,  
17 right, in the hypothetical?

18 What would happen under the cash management  
19 feature to your understanding with that \$50,000?

20 A If there's excess deposits coming in, they  
21 would pay down the line of credit.

22 Q And if there was no balance on the line of  
23 credit at the time those excess deposits came in,  
24 then they would create a positive balance on CCI's  
25 bank account?

1 A Yes.

2 Q And CCI would gain interest on that?

3 A Yes. They would be swept and put into  
4 purchasing.

5 Q As of the start or the first quarter of  
6 calendar year 1999, CCI had -- let me actually  
7 rephrase it.

8 As of the conclusion of calendar year 1999  
9 -- in other words, December 31, 1999 -- CCI, in fact,  
10 had four credit facilities or loans outstanding with  
11 Allfirst, right?

12 MS. JOYCE: Object to the form of the  
13 question. You can answer.

14 BY MR. GEBHARDT:

15 Q We have the 4 million --

16 A As I recall, there was a \$4 million line of  
17 credit. There was a \$1.2 million line. There were  
18 equipment loans. I don't remember how many we  
19 aggregated together. I'm not sure how many equipment  
20 loans there were, so I can't answer exact number.

21 Q Do you remember there being a \$2 million  
22 equipment loan or line of credit financing of  
23 equipment?

24 A Yes, I do.

25 Q Now --

1                   MR. SWICHAR: Just a minute. You said  
2 four, and she said three. She provided three.

3                   MR. GEBHARDT: She's correct. I'm  
4 incorrect.

5                   MR. SWICHAR: I was waiting for her to  
6 correct you.

7 BY MR. GEBHARDT:

8                   Q         Let's make the record clear. There were  
9 actually the three credit facilities available as of  
10 December 31, 1999; namely, the \$4 million line of  
11 credit, the \$1,200,000 loan, and a \$2 million  
12 equipment loan or line of credit?

13                  A         And as I'm saying, as I recall, yes, I  
14 remember all those loans. I don't remember if we had  
15 any other small pieces of equipment financed  
16 separately; but yes, I remember all of those three.  
17 Those are the three main ones that I remember.

18                  MR. GEBHARDT: Let's do this as the next  
19 exhibit.

20                  (Audit report and financial statements for  
21 years ended December 31, 1998 and 1997 was marked as  
22 Deposition Exhibit No. 3.)

23 BY MR. GEBHARDT:

24                  Q         Okay. I've handed you what has been marked  
25 as Deposition Exhibit No. 3 which purports to be the

1 audit report and financial statements of CCI  
2 Construction for the years ended December 31, 1998  
3 and 1997. Does that appear to be what this document  
4 is to you?

5 A Yes, it does.

6 Q Would I be correct, looking at the  
7 financial report that's been presented, that CCI did  
8 not lose money for the fiscal year 1998?

9 A That's correct.

10 Q And if you look at it, it's page 12 of the  
11 audited report, BATE stamp number at the bottom,  
12 C 7637, there's a Paragraph No. 6, Operating line of  
13 credit. The last sentence says, quote, The company  
14 has no outstanding balance on the line of credit at  
15 December 31, 1998, period, end quote.

16 Testing your memory, does that roughly  
17 accord with your recollection of the line of credit  
18 as of that year?

19 A I can't really answer that as a yes/no only  
20 because our line of credit was a constant resolving  
21 line. I do know at year end, we would hold writing  
22 checks if we could and get deposits in to try and  
23 have your financial statement look as healthy  
24 cashwise as possible. So that makes sense, but do I  
25 actually remember it? No.

1 Q Over the course of time you were at CCI,  
2 were there times when the company had no borrowings  
3 under its line of credit?

4 A Yes, sir.

5 Q In fact, on some of the lines of credit,  
6 there was actually a requirement that CCI be out of  
7 the line of credit?

8 MR. SWICCHAR: Can I hear that again?

9 (The reporter read back the referred-to  
10 portion of the record.)

11 MR. SWICCHAR: My objection was, Was there a  
12 requirement? There's a document. That was my  
13 objection.

14 BY MR. GEBHARDT:

15 Q Do you recollect whether there in the lines  
16 of credit that were in existence over the period of  
17 time you were there from 1991 through 2000 whether  
18 there was customarily a feature that to those lines  
19 of credit that required CCI to have no borrowings  
20 for a 30 consecutive day period?

21 MR. SWICCHAR: And I object to the form of  
22 the question because I don't know what you mean.

23 MR. GEBHARDT: You may answer.

24 MS. JOYCE: If you understand what he  
25 means, if you need clarification, you may request it.

1 THE WITNESS: During the course of the  
2 loans that we had with Allfirst, there were  
3 definitely times where there was a provision in the  
4 loan that said it had to be paid down for 30 days at  
5 certain points in time. Whether that was in the last  
6 loan, I don't recall.

BY MR. GEBHARDT:

8 Q Now, in fiscal year 1999, did CCI  
9 experience some financial reverses?

A Financial reverses? I'm sorry.

11 Q Did CCI experience some financial  
12 difficulties in 1999?

13 A Our profits started decreasing in -- yes,  
14 on our jobs. Yes, they did.

15 MR. GEBHARDT: Let's mark this as the next  
16 exhibit.

17 (10/26/1999 inter-office memorandum was  
18 marked as Deposition Exhibit No. 4.)

19 BY MR. GEBHARDT:

20 Q I've handed you Deposition Exhibit 4, which  
21 is a memorandum prepared by Craig Schwartz to  
22 evidence a meeting that he states he had with you and  
23 with John Ortenzio on or about October 26th, 1999.

24 Do you recollect having a meeting with  
25 Mr. Schwartz at the end of October of 1999?

1 coming in from receivables and projects would  
2 generate enough cash to pay this down on a short-term  
3 basis.

4 Q In the discussions, was it discussed that  
5 CCI would repay the \$1.2 million loan by making a  
6 borrowing on the \$4 million line of credit?

7 A No, it was not.

8 Q I note on Exhibit 4 that again there's the  
9 reference to the \$4 million Scott Air Force Base  
10 receivable. Did that \$4 million receivable have any  
11 relationship to a source of funds to repay the \$1.2  
12 million loan?

13 A I don't recall if that -- if that was  
14 specifically said or not.

15 Q Now, at the time the \$1.2 million loan was  
16 being taken out, I take it you had discussions with  
17 Mr. Ortenzio about the borrowing?

18 A That's correct.

19 Q And did you and Mr. Ortenzio discuss where  
20 CCI would obtain the funds to repay the \$1.2 million  
21 when it came due which, according to the commitment  
22 letter, was March 31, 2000?

23 A Yes, we did.

24 Q And what was the substance of those  
25 discussions?

1           A       I had done some cash flow projections. I  
2       know John was adamant about having this paid back on  
3       a short-term basis. When I gave him the cash flow  
4       projections, I had said that if the job profits that  
5       are projected hold, we would have the money to pay  
6       back this 1.2 million.

7                   I also told him that we had seen declining  
8       job profit projections over time. I said, I'm not  
9       making the projections on the jobs. That's what I've  
10      been given from the people in operations. Each month  
11      they were decreasing.

12                I said, based on what the most current  
13      projections were, if they came in at that amount, we  
14      would have the cash flow to pay back the 1.2 million.

15                Q       At the time you were having these  
16      discussions with Mr. Ortenzio, were there any  
17      discussions about using a borrowing under the \$4  
18      million line of credit to repay the \$1.2 million  
19      guaranteed note?

20                A       No, there were not.

21                Q       In 1999 and the year 2000, did  
22      Mr. Ortenzio, to your knowledge, have any involvement  
23      in the repaying of the loans to Allfirst Bank?

24                A       Which loans?

25                Q       Well, there were three loans. You had the

1 line of credit -- let's start first with the \$4  
2 million line of credit. Did he get involved in how  
3 that was being paid or repaid at all?

4 A I'm not sure.

5 MS. JOYCE: What time?

6 MR. GEBHARDT: In 1999 and 2000.

7 THE WITNESS: Did he get involved in how it  
8 was repaid?

9 BY MR. GEBHARDT:

10 Q Or the process, the repayment process?

11 A No, that was the line of credit. As the  
12 cash came in, it was paid down.

13 Q How about the repayment of the equipment  
14 loan?

15 A No, he did not.

16 Q Okay. Now, the \$1.2 million loan was  
17 repaid by CCI on or about February 11, 2000, by the  
18 delivery of a check by Mr. Ortenzio personally to  
19 Allfirst.

20 Prior to that date, had you had any  
21 discussions with Mr. Ortenzio about the repayment of  
22 the \$1.2 million line of credit?

23 A Yes. He had come to me about that.

24 Q And what was the substance of the  
25 discussions you had?

1           A       He wanted to pay down the \$1.2 million --  
2       the \$1.2 million line, he wanted to pay down because  
3       he had that personally guaranteed. He had asked me  
4       about writing a check out to pay that off from the  
5       line of credit, and I refused.

6           Q       Why did you refuse?

7           A       I didn't think it was in the best interest  
8       of the corporation to do that.

9           Q       And could you explain why you had those --  
10      that you didn't think it was in the best interest of  
11      the corporation?

12       A       One, I guess I didn't think there was any  
13      benefit to doing it. The interest rates were the  
14      same in the loans so there was no corporate benefit  
15      from paying one -- drawing in one line of credit to  
16      pay the other.

17               Two, if we had the extra cash, I would have  
18      thought it best suited to pay payroll and accounts  
19      payable and subcontractors.

20       Q       And at the time the loan was paid in  
21      February, the company was experiencing cash flow  
22      difficulties?

23       A       Yes.

24       Q       And did you understand that repaying the  
25      \$1.2 million loan with a draw on the \$4 million line

1 of credit would reduce the amount of available cash  
2 to the company?

3 A Yes, definitely.

4 Q Okay. Now, in terms of the physical paying  
5 of the \$1.2 million loan, you did not write the  
6 check?

7 A No, I did not.

8 Q Did you have signature authorities over the  
9 checking account?

10 A Yes, I did.

11 Q And so if you had wanted to, you could have  
12 written a \$1.2 million check and sent it in to  
13 Allfirst?

14 A Yes, I could have.

15 Q Did Mr. Ortenzio have any reaction to your  
16 refusal to write the check or make that payment?

17 A Initially when he had asked me about it and  
18 I said no, he didn't do anything. Then at a later  
19 point in time, he came back to me again and said I  
20 know you don't agree with this; but I need to do it.  
21 I said, you're the president of the company; but I'm  
22 not going to be any part of it.

23 Q Did he at all elaborate on when he said I  
24 need to do this, what he was meaning by this?

25 A He personally guaranteed the 1.2 million

1 time in the generation of these financial  
2 statements --

3 MS. JOYCE: Object to the form of the  
4 question. You may answer.

5 BY MR. GEBHARDT:

6 Q -- as supervisor of the accounting  
7 department?

8 A Yes, I would have.

9 Q And would I be correct that after these  
10 were generated, they were provided to Mr. Ortenzio?

11 A Yes.

12 Q And at the top of the page in the  
13 right-hand corner, there's an indication 02-14-2000  
14 14:05, is that a reference to when these statements  
15 were printed out?

16 A Yes, it is.

17 Q Roughly how long after they were printed  
18 out would it have been when you gave these to  
19 Mr. Ortenzio?

20 A Probably within -- if he was in the office  
21 and we did these, it would have been within a day or  
22 two.

23 Q Now, the income statement, if you look at  
24 the second page, would I be correct indicates --

25 MS. JOYCE: The second page of which

1 exhibit?

2 MR. GEBHARDT: Of Exhibit 8.

3 BY MR. GEBHARDT:

4 Q -- that there is a net loss the company has  
5 sustained of slightly over \$6 million?

6 A That's correct.

7 Q And did you have occasion to discuss with  
8 Mr. Ortenzio that amount of loss of the company for  
9 the 13-month period after these statements were  
10 generated?

11 A Yes.

12 Q Would I be correct that there was a  
13 12-month internal income statement also generated at  
14 CCI? Would that have been the normal practice?

15 A That's the normal practice, but this  
16 actually would have been the 12-month statement --  
17 you mean because of the 13 months up there?

18 Q Yes.

19 A Thirteen months was how our accounting  
20 system would give us time at the end of the year to  
21 go into the next year so that you could do W-2s in  
22 the prior year and keep it open for adjustments and  
23 start your next year of business. So this was  
24 actually for 12 months.

25 MS. JOYCE: Let me just make sure the

1 record is clear. The witness is referencing Exhibit  
2 No. 8.

3 MR. GEBHARDT: Thank you.

4 BY MR. GEBHARDT:

5 Q Prior to this document, which is Exhibit 8,  
6 being generated, was it understood by you that CCI  
7 for the fiscal year 1999 was going to sustain an  
8 operating loss in the magnitude that's reflected on  
9 the statement?

10 A Could you repeat that?

11 Q Right. I mean before February 14 when this  
12 statement was printed out, did you have an  
13 appreciation that the company was likely to sustain a  
14 loss in the \$6 million area for the fiscal year 1999?

15 A Sometime prior to printing this, yes.

16 Q And based on your discussions with  
17 Mr. Ortenzio and things he said to you, did he have  
18 an understanding that the company was going to  
19 sustain a loss for fiscal year 1999 in this area?

20 A Prior to this?

21 Q Yes.

22 A Prior to this, he would have -- if I can  
23 back up. What generates the profits on the jobs are  
24 reports that -- I'm sorry. What generates the profit  
25 or loss on the income statement is information I got

1 from operations projecting job profits or losses. At  
2 the time those losses came in, they changed  
3 drastically because they deceased.

4 At that time, I had constant conversations  
5 with our chief operating officer. He would meet with  
6 John, and I would meet with him sometimes together,  
7 sometimes apart. This is the final result.

8 As we discussed that, we knew that it was  
9 going to hit our bottom line in a big way as far as  
10 an exact amount. We knew it was coming together for  
11 a big loss.

12 Q And focusing on the February 11, 2000 date  
13 on which Mr. Ortenzio delivered the CCI check to  
14 Allfirst to pay the \$1.2 million loan, prior to that  
15 date and based on your discussions and interactions  
16 with Mr. Ortenzio, was he aware of the company's  
17 financial situation that was going to result in a  
18 loss somewhere in the magnitude reflected on Exhibit  
19 8?

20 A Oh, yes.

21 Q And based on your discussions with him, did  
22 his awareness of that -- did he express any  
23 relationship between anticipating this loss and  
24 wanting to get the \$1.2 million loan paid?

25 MS. JOYCE: You mean prior to February 11?

1       Are you still in the same time frame?

2                    MR. GEBHARDT: Yes.

3                    THE WITNESS: Give me the question again.

4                    BY MR. GEBHARDT:

5                    Q       Did Mr. Ortenzio in any way relate the  
6                    anticipated loss in the rough area of \$6 million to  
7                    getting the \$1.2 million loan repaid even if he had  
8                    to borrow on the line of credit?

9                    A       Yes.

10                  Q       Do you remember anything he may have said  
11                  to you in that regard?

12                  A       When we had these discussions, the chief  
13                  operating officer was Shane Miller; the president,  
14                  John; myself -- and I don't recall if the senior VP  
15                  was involved. I think it was probably just the three  
16                  of us.

17                  Initially, when he talked about the  
18                  financial condition of the company, the chief  
19                  operating officer had said that in order to keep  
20                  going that the company would need more cash put into  
21                  it.

22                  At that time, John had said he was not  
23                  going to put more cash into the company. That's when  
24                  in the meetings, Shane, our chief operating officer,  
25                  said, if you're not going to, we have serious

1 impression to us that he was not going to continue  
2 with company.

3 Q Now, Mr. Ortenzio attended that meeting  
4 with an attorney named Chernicoff. Do you know how  
5 Mr. Ortenzio came in contact with Mr. Chernicoff?

6 A As I recall, he had told me that initially  
7 he had talked to Leroy Zimmerman about being his  
8 counsel. I thought there was a conflict of interest.  
9 I wasn't involved in the conversations, but there was  
10 a conflict of interest and that he was going to use a  
11 bankruptcy attorney named Bob Chernicoff. I didn't  
12 know him.

13 Q Did Mr. Ortenzio express to you that  
14 Mr. Chernicoff was a bankruptcy attorney?

15 A I don't recall where I learned he was a  
16 bankruptcy attorney. We had the discussion of  
17 bankruptcy, and he hired Chernicoff. Whether he told  
18 me he was a bankruptcy attorney, I don't know.

19 Q So you and Mr. Ortenzio had had discussions  
20 regarding CCI's possible bankruptcy before the  
21 February 18, 2000 meeting at Allfirst?

22 A Yes.

23 MS. JOYCE: Object to the form of the  
24 question. That's fine.

25 MR. GEBHARDT: Let's mark this as the next

1 cash flow shortages that are shown on Deposition  
2 Exhibit No. 10?

3 A Yes, we did.

4 Q What was the substance of those  
5 discussions?

6 A That -- which time frame are you looking?

7 Q Well, in other words, the cash flow  
8 statement that's Exhibit 10 was generated in showing  
9 these cash flow losses that are, at least in my view,  
10 fairly significant.

11 Before he went to Allfirst, did you and he  
12 discuss how the company was going to try and come up  
13 with the money to meet the cash flow shortages?

14 A Yes. We had several meetings with myself,  
15 the chief operating officer, Shane Miller, and John.

16 Q Did you have any specific meetings with the  
17 anticipation of the February 18 meeting at Allfirst  
18 to discuss it?

19 A We met to -- this was more of an ongoing  
20 discussion. But when we got to -- I guess that's  
21 what prompted the meeting on February 18th, the fact  
22 that we had these serious cash flow concerns. We had  
23 talked to John, and Shane said the only way -- we're  
24 going to need you to put more money into the company  
25 in some form in order to get through this until we

1 get money back on these claims.

2 John refused to do that; and Shane said, if  
3 we can't do that, we can't keep going forward. The  
4 bonding company will have to step in, or we're going  
5 to file bankruptcy or something.

6 We had several meetings discussing that,  
7 and the likelihood of the company going forward was  
8 slim at that point because John had said he was not  
9 making any additional commitments.

10 At some point in time, we had found out  
11 that the Scott Air Force Base was not going to come  
12 in real quickly. We needed something at that point  
13 in time. We discussed the longevity of the company  
14 and the fact that we weren't going forward. That's  
15 what prompted the discussions with Allfirst.

16 Q Did you know that this document, which is  
17 Exhibit 10, was going to be distributed at the  
18 meeting at Allfirst before the meeting?

19 MR. SWICHAR: I object because I think she  
20 said she didn't recall the specific document.

21 BY MR. GEBHARDT:

22 Q Is that correct? You don't recall the  
23 specific document?

24 MS. JOYCE: I don't think that was her  
25 testimony. You can clarify your response.

1 a second?

2 MR. GEBHARDT: Sure.

3 (Off the record discussion.)

4 BY MR. GEBHARDT:

5 Q Looking at the bottom left-hand corner  
6 where it says 2/16/00 and then 7:08 p.m., would that  
7 be the time this was printed off the computer?

8 A Yes.

9 Q Looking up to the February column, are the  
10 numbers there as of February 1 or would they be as of  
11 February 28?

12 A As I recall, the beginning cash balance, I  
13 think, was February 1; and the ending cash balance  
14 would have been February 28 in the first column. And  
15 then that carries forward to March, so that would be  
16 the beginning of March at the top of the column and  
17 the end of March at the bottom.

18 Q Where it says the next line after ending  
19 cash balance, available line of credit \$5,200,000,  
20 would that also be a number reflected as of February  
21 28?

22 A Yes. As far as I recall, that was what my  
23 projection was.

24 Q The cash flow projection doesn't reflect  
25 the repayment of the \$1.2 million loan with a draw on

1 the \$4 million line of credit?

2 A No, it didn't.

3 Q And based on your understanding of how the  
4 numbers work on this Deposition Exhibit 10, is there  
5 any way Allfirst could have learned by looking at  
6 this document that Mr. Ortenzio had caused CCI to  
7 borrow on the \$4 million line of credit to repay the  
8 \$1.2 million guaranteed loan?

9 A No.

10 MR. GEBHARDT: I have no further questions.

11 MR. SWICHAR: Could we either take a  
12 15-minute break now or break for lunch. I'll have  
13 about an hour's worth.

14 MS. JOYCE: It's the witness's call.

15 THE WITNESS: If we could take about a 10-  
16 or 15-minute break now, then I could get back to  
17 work.

18 MR. SWICHAR: Okay. Let's take 15 minutes.  
19 Thanks.

20

21 CROSS EXAMINATION

22

23 BY MR. SWICHAR:

24 Q Ms. Phillips, I sort of want to trace some  
25 of the questions that you were previously asked

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

3

4 ALLFIRST BANK,

Plaintiff :

5

vs. :

6

JOHN M. ORTENZIO,

7 Defendant : NO. 1:01-CV-786

8

9

February 11, 2002

10

11 Oral Deposition of JOHN M. ORTENZIO,  
12 taken pursuant to notice, was held at Cunningham  
13 and Chernicoff, 2320 North 2nd Street, Harrisburg,  
14 Pennsylvania 17110, beginning at 1:40 p.m., on the  
15 above date, before Donna L. Crossan, an Approved  
16 Registered Professional Reporter and Notary Public  
17 in and for the Commonwealth of Pennsylvania.

18

19

20

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24

<p>1 question.</p> <p>2 Q You knew the revolving line of 3 credit was required to be repaid or renewed or 4 some other manner dealt with by April 30, 2000, 5 didn't you?</p> <p>6 A My recollection was that there 7 was a due date when the note would be renewed, but 8 there was a 30-day notice.</p> <p>9 Q For demand of payment. Right?</p> <p>10 A That's what it says.</p> <p>11 Q There's some markings that appear 12 to be Sheri Phillips' initials on page 3 of the 13 note and then page 2 of the note. Do you see 14 those?</p> <p>15 A Yes, I see them.</p> <p>16 Q Were those put on there by her at 17 your direction?</p> <p>18 A I'm not exactly sure how they 19 came about, whether or not in her negotiation for 20 the note she negotiated certain points of the 21 note. She would have advised me of them prior to 22 executing them, so I was aware prior to her 23 executing the note. I don't know -- I did not 24 participate in the negotiations of the note. I</p>	<p>58</p> <p>1 beforehand or it came afterwards, but I don't 2 recall that they were negotiated at the same time.</p> <p>3 Q In connection with the \$4 million 4 line of credit, was it CCI's practice to ask its 5 customers to forward payments of CCI's billings 6 directly to AllFirst?</p> <p>7 A That was something that I 8 think -- at what point in time are you referring 9 to?</p> <p>10 Q After the \$4 million line of 11 credit was put into effect, which appears to be 12 when the commitment letter was issued on March 23 13 and when the promissory note was signed, I guess, 14 which was sometime shortly thereafter, did you 15 understand the cash management facility to be in 16 place once the commitment letter was issued and 17 the promissory note signed?</p> <p>18 A I don't recall if the cash 19 management system was in place after that or not. 20 The exact date of the cash management system was 21 put into effect with the company. I don't have an 22 exact date as to when that was.</p> <p>23 Q In 1999, was it the practice of 24 CCI to request its customers to mail payments</p>
<p>59</p> <p>1 don't believe they were specifically done at my 2 direction. I think she negotiated the note, 3 reviewed the points with me for my approval, which 4 I granted, and negotiations were completed.</p> <p>5 Q Did she discuss with you the 6 terms and conditions upon which the \$4 million 7 revolving line of credit was being extended to 8 CCI?</p> <p>9 A We discussed the fact that we had 10 at that time submitted for an increase to our line 11 of credit and she was going to begin negotiations 12 for it. So I was aware of that, yes.</p> <p>13 Q You were aware there was a cash 14 management feature accompanying this revolving 15 line of credit?</p> <p>16 A At the time that this was 17 negotiated, no. I think the cash management was 18 something that came afterwards, I believe.</p> <p>19 Q After the execution of the 20 documents?</p> <p>21 A I think. I'm not sure, to tell 22 you the truth. It may have even been before. I 23 don't believe they were simultaneous. I think we 24 were under a cash management program with them</p>	<p>61</p> <p>1 directly to AllFirst?</p> <p>2 A No. I think that the majority of 3 them mailed them to us and we deposited them.</p> <p>4 Q There were customers that paid 5 CCI's billings directly to AllFirst, isn't that 6 right?</p> <p>7 A There were some projects where 8 the project owner requested wiring instructions 9 and they would wire funds.</p> <p>10 Q What was your understanding of 11 how the line of credit and the cash management 12 feature worked on the \$4 million facility?</p> <p>13 MR. BURKE: Meaning the witness 14 or CCI's?</p> <p>15 MR. GEBHARDT: His personal.</p> <p>16 A Well, let's see, line of credits 17 would fluctuate up and down and the cash 18 management system would sweep our account at a 19 certain point in time every night, empty our 20 account, pull the funds back in. We would get a 21 higher rate of interest on it, no rate deposit, 22 and put the funds in honor of the checks to be 23 presented the following day.</p> <p>24 BY MR. GEBHARDT:</p>

62

1 Q Would I be correct in saying that  
 2 payments received by CCI either directly or that  
 3 were sent by customers to AllFirst would be  
 4 deposited?

5 A Right.

6 Q CCI only had one bank account  
 7 into which its receivables were deposited. Right?

8 A Yes.

9 Q Those receivables were either  
 10 deposited by CCI or by the customers directly?

11 A Yes.

12 Q And to the extent CCI had  
 13 outstanding borrowings under the line of credit,  
 14 the deposits would be used to pay down those  
 15 borrowings?

16 A I guess, depending on -- I'm sure  
 17 the procedure of the bank, if we would deposit the  
 18 funds into -- funds would come in, be deposited  
 19 into our account and the bank would sweep those  
 20 funds, and then any checks that would be presented  
 21 would then be honored by the bank.

22 Q If there were not enough funds on  
 23 deposit to pay the checks that were presented,  
 24 there would then be an advance on the line of

64

1 would draw interest on behalf of CCI?

2 A I guess that's probably what  
 3 would happen or used to offset interest charges  
 4 that would be billed against us on a line of  
 5 credit.

6 Q There would be no further  
 7 advances on the loan, the revolving line of  
 8 credit, until that excess deposit and this  
 9 hypothetical \$700,000 had been drawn down?

10 A That I couldn't say. I wouldn't  
 11 know -- I know sometimes there were some funds put  
 12 into some -- possibly put into fixed short-term  
 13 securities, 30, 60, 90-day paper, in which case  
 14 something would be sitting there. So you have  
 15 money and maybe the line was drawn down. I  
 16 believe we did some of that at some point in time  
 17 because it was advantageous.

18 Q You wouldn't do borrowings under  
 19 the line of credit if there was a positive balance  
 20 in the account, you meaning CCI?

21 A Depends on what the company was  
 22 doing with short-term funds. If, hypothetically,  
 23 if we had bought some short-term commercial paper  
 24 because the interest rate was attractive, then we

63

1 credit to cover those checks?

2 A The line of credit would be drawn  
 3 down and so it would fluctuate up and down, and  
 4 that's my understanding that's how it worked.

5 Q You didn't deal directly with  
 6 this yourself?

7 A No.

8 Q Sheri Phillips did?

9 A Yes, she was the CFO. She would  
 10 handle any day-to-day functions of the bank or as  
 11 far as our deposits and disbursements.

12 Q Was it your understanding that if  
 13 the deposits exceeded any existing borrowings  
 14 under the line of credit that were still  
 15 outstanding plus any checks that were presented,  
 16 the excess would be placed in an interest-bearing  
 17 account on behalf of CCI?

18 A Any excess funds?

19 Q If there was \$100,000 drawn  
 20 hypothetically on the CCI account on the line of  
 21 credit and there was \$200,000 of checks presented,  
 22 but CCI had deposited \$1 million, it was your  
 23 understanding that \$700,000 would be placed in an  
 24 interest-bearing account on behalf of CCI, and it

65

1 would do that at the bank and access the line.  
 2 So, hypothetically, that's possible, too.

3 Q Hypothetically?

4 A Or in theory or reality.

5 Q How did CCI make borrowings in  
 6 1999 under the revolving line of credit?

7 A Mechanically how?

8 Q Yes. What was the process?

9 A I guess mechanically we would  
 10 either draw down on it or -- I guess by request or  
 11 by presenting the checks.

12 Q Typically the line of credit was  
 13 accessed by simply writing checks on CCI's bank  
 14 account. Isn't that right?

15 A Could be.

16 Q Are you aware of any times when  
 17 CCI requested money to be deposited in the account  
 18 for the line of credit without checks being  
 19 presented?

20 ---

21 (Whereupon the pertinent  
 22 testimony was read back by the court reporter.)

23 ---

24 MR. BURKE: Objection to form.

<p>66</p> <p>1 You can answer.</p> <p>2 A I don't know if that occurred or</p> <p>3 not.</p> <p>4 BY MR. GEBHARDT:</p> <p>5 Q You just have no knowledge one</p> <p>6 way or another?</p> <p>7 A I suppose it could have occurred.</p> <p>8 I would have to think of a scenario where it might</p> <p>9 have. I could not sit here and tell you that it</p> <p>10 did or did not occur.</p> <p>11 MR. BURKE: Maybe now is a good</p> <p>12 time to take a break.</p> <p>13 - - -</p> <p>14 (Whereupon there was a recess in</p> <p>15 the proceedings.)</p> <p>16 - - -</p> <p>17 BY MR. GEBHARDT:</p> <p>18 Q That would be because Sheri</p> <p>19 Phillips was the person principally dealing with</p> <p>20 the line of credit with AllFirst?</p> <p>21 A Well, she handled the day-to-day</p> <p>22 accounting functions, if that's what you mean by</p> <p>23 that. She handled the day-to-day accounting</p> <p>24 functions. As far as your question you just asked</p>	<p>68</p> <p>1 MR. BURKE: You, meaning the</p> <p>2 witness or CCI?</p> <p>3 MR. GEBHARDT: The witness.</p> <p>4 A I may have. I don't recall. I</p> <p>5 think the loan documents permitted me to do so. I</p> <p>6 just don't recall if the company, if we did or</p> <p>7 not, accessing in that fashion.</p> <p>8 BY MR. GEBHARDT:</p> <p>9 Q Were you personally involved in</p> <p>10 the accounts payable or check-writing function of</p> <p>11 CCI?</p> <p>12 A If they were checks on a</p> <p>13 particular area that I had some issue with, I</p> <p>14 might have reviewed what was going out to certain</p> <p>15 vendors or contractors.</p> <p>16 Q Did you write the checks</p> <p>17 personally at all?</p> <p>18 A They were set up on a check</p> <p>19 writer.</p> <p>20 Q Did you operate the check writer</p> <p>21 at all in 1999 forward?</p> <p>22 A Did I operate the check writer?</p> <p>23 Q Yes.</p> <p>24 A No, I did not operate the check</p>
<p>67</p> <p>1 me previously, I would imagine that it would be</p> <p>2 permissible under the loan documents to draw a</p> <p>3 line of credit in that fashion for maybe a</p> <p>4 purchase, for whatever. So, as far as accessing</p> <p>5 the line of credit, it would have been permissible</p> <p>6 to do it in the way you mentioned. Whether or not</p> <p>7 it was actually done or how many times it was</p> <p>8 done, I can't say.</p> <p>9 Q My question was, is that because</p> <p>10 Sheri Phillips was the person handling that</p> <p>11 function or that process, not you?</p> <p>12 A Not necessarily. It could just</p> <p>13 be the fact that sitting here three years later, I</p> <p>14 just don't recall.</p> <p>15 Q That's my question.</p> <p>16 MR. BURKE: I think he answered</p> <p>17 it.</p> <p>18 BY MR. GEBHARDT:</p> <p>19 Q You don't recall?</p> <p>20 A I don't recall if that was done</p> <p>21 or not.</p> <p>22 Q Did you ever personally request</p> <p>23 an advance on the line of credit other than</p> <p>24 through writing a check from 1999 forward?</p>	<p>69</p> <p>1 writer.</p> <p>2 Q Did you always sign the checks?</p> <p>3 A The check writer signed the</p> <p>4 checks.</p> <p>5 Q Whose signature did they bear?</p> <p>6 A Mine.</p> <p>7 Q Who was authorized to use the</p> <p>8 check writer?</p> <p>9 A There was a series of --</p> <p>10 depending on what it was for, project managers had</p> <p>11 certain authority to authorize disbursements,</p> <p>12 senior project manager had authority. There was a</p> <p>13 number of authority levels to execute checks or</p> <p>14 approve a check.</p> <p>15 Q Did Sheri Phillips have</p> <p>16 authority?</p> <p>17 A Did she have authority to?</p> <p>18 Q Have the check writer issue</p> <p>19 checks.</p> <p>20 A Yes, she had authority.</p> <p>21 Q Shane Miller, did he have</p> <p>22 authority?</p> <p>23 A Yes.</p> <p>24 Q And were most of the checks that</p>

70  
1 were written under the authority or the auspices  
2 of Sheri Phillips or Shane Miller?

3 A Checks would have been written  
4 under the authority of any three of us, but then  
5 there were also checks that other people in the  
6 company had authority to approve and submit.

7 Q Unless there was some actual  
8 issue you were concerned with, you didn't get  
9 involved in the process of issuing checks?

10 MR. BURKE: Objection to the  
11 form.

12 A Depending what it was.

13 BY MR. GEBHARDT:

14 Q Unless it was something you had a  
15 particular interest in, that's not one of the  
16 functions that you did on a day-to-day basis?

17 A It could also be a fact that it  
18 may be a situation where Shane Miller wasn't in  
19 town and so I reviewed checks for disbursement.  
20 It could have been an issue where Sheri wasn't in  
21 town. And so in the course of the year there  
22 were, I'm sure, many scenarios that came up. So  
23 there really was no one specific way that I'll say  
24 disbursements were handled.

72  
1 clerk was responsible to run a report at a certain  
2 point in time and mail it.

3 Q Did you have any personal  
4 involvement in that process?

5 A As far as writing the report  
6 myself?

7 Q As far as overseeing and making  
8 sure the report was submitted to AllFirst in  
9 accordance with the requirements with the line of  
10 credit.

11 A No. I assume that the bank  
12 received it. Otherwise, I would have been alerted  
13 by the bank that they had not received it.

14 Q I didn't say that they didn't  
15 receive it. I was just asking whether you were  
16 involved in the process of getting those reports  
17 to the bank and your answer is, I take it, no?

18 A I did not prepare the accounts  
19 receivable report to go to the bank.

20 Q I understand you didn't prepare  
21 it. You didn't oversee the preparation or the  
22 forwarding either, did you?

23 A Other than directing the  
24 department that it was to be done.

71  
1 Q It wasn't your customary  
2 day-to-day function to do that?

3 MR. BURKE: To do what?

4 MR. GEBHARDT: To issue checks or  
5 supervise the issuance of the checks.

6 A On day-to-day basis?

7 BY MR. GEBHARDT:

8 Q Yes.

9 A No, not on a day-to-day basis.

10 MR. BURKE: Take a break.

11 MR. GEBHARDT: Okay.

12 ---

13 (Whereupon there was a recess in  
14 the proceedings.)

15 ---

16 BY MR. GEBHARDT:

17 Q Were monthly accounts receivable  
18 agings provided to AllFirst in accordance with the  
19 commitment letter in 1999?

20 A To my knowledge they were.

21 Q Who was responsible for  
22 forwarding the accounts receivable aging to  
23 AllFirst?

24 A I would suspect probably an AR

73  
1 Q You were aware that it was being  
2 done?

3 A To the best of my knowledge, yes.

4 Q Now, there came a time in 1999  
5 when CCI requested credit from AllFirst in excess  
6 of the \$4 million revolving line of credit. Is  
7 that correct?

8 A Yes.

9 Q What was it that CCI requested of  
10 AllFirst in 1999?

11 A Are you referring to October,  
12 November of '99, that time frame?

13 Q When the request was first made,  
14 what did CCI ask?

15 A There was a request made in  
16 October of 1999 for additional borrowing.

17 Q In what amount?

18 A \$1 million.

19 Q And who made the request?

20 A I did.

21 Q And to whom did you make the  
22 request?

23 A It would have been made to Chris  
24 Schwartz and Mike Zarcone or Craig Schwartz who

86

1 A Well, this one says work in  
 2 progress, where I think the other one says work in  
 3 process. So to the extent that would be the  
 4 difference, I guess.

5 Q You don't recognize that as a  
 6 material difference in what the meaning is, do  
 7 you?

8 MR. BURKE: I'll object to the  
 9 form to the extent the document speaks for itself.

10 A Work in progress, work in  
 11 process, I don't know.

12 MR. BURKE: It's not identical.

13 A It's not identical.

14 BY MR. GEBHARDT:

15 Q The purpose of the million two  
 16 was to provide funds to finance work in progress  
 17 and accounts receivable. Correct?

18 A The intent was a short-term loan,  
 19 a bridge loan to cover that time period from  
 20 November to February.

21 Q Because there was a cash flow  
 22 shortfall?

23 A We were projecting a cash flow  
 24 shortfall.

88

1 Q And so this cash increase would  
 2 be used to repay the temporary facility?

3 A Well, our cash flow was projected  
 4 to then increase within about 90 days, and as I  
 5 indicated to the bank, that was the only amount of  
 6 time that we needed and that we would pay it back.

7 Q And the commitment letter  
 8 provides that it's to be repaid on March 31, 2000.  
 9 Right?

10 MR. BURKE: Objection to the  
 11 form. Where are you referencing, counsel?

12 MR. GEBHARDT: Next to last  
 13 paragraph on the first page.

14 MR. BURKE: Where does it say it  
 15 will be repaid on March 31?

16 MR. GEBHARDT: If no demand is  
 17 made, the loan will expire and all borrowings will  
 18 be due and payable together with interest on March  
 19 31, 2000.

20 A Well, when I requested a million  
 21 dollars for 90 days, what they came back with was  
 22 they wanted to increase the amount, what they had  
 23 given me as cushion and they wanted to increase  
 24 the time frame, which I had requested, from 90 to

87

89

1 Q Caused by the receivables that  
 2 you thought were due and payable particularly from  
 3 the two projects, Scott Air Force Base and  
 4 Albemarle Prison. Right?

5 A Those were two of the reasons as  
 6 well as the fact that winter had set in, so  
 7 receivables of all jobs were going to be slower  
 8 because work couldn't progress. So we were  
 9 projecting a cash flow shortfall. Whether or not  
 10 in reality we would have had one, I don't know,  
 11 but it was close enough where I felt it prudent to  
 12 obtain additional funds to have in the event that  
 13 the worst case scenario we were projecting came to  
 14 pass.

15 Q How long was this -- was your  
 16 intention to have the loan outstanding, this  
 17 temporary facility?

18 A Our projections, we only needed  
 19 it for 90 days.

20 Q Sufficient cash would come into  
 21 the company to pay it?

22 A Those were what the projections  
 23 were, indicating that the cash flow would increase  
 24 after that.

1 120. So that is what they came back to. I  
 2 reiterated to them that that was not necessary and  
 3 was not what I requested. When I signed the note,  
 4 he indicated he would have to go back and retype  
 5 the note, or something to that effect, and really  
 6 sat there and said, what's the difference, in 90  
 7 days pay it.

8 BY MR. GEBHARDT:

9 Q The note doesn't have a due date,  
 10 does it?

11 MR. BURKE: Objection to form.

12 A I would have to take a look at  
 13 it.

14 MR. BURKE: The document speaks  
 15 for itself.

16 BY MR. GEBHARDT:

17 Q Let's take a look at your note.

18 MR. GEBHARDT: Mark this as 16.

19 ---

20 (Whereupon the document was  
 21 marked for identification as Deposition Exhibit  
 22 No. 16.)

23 ---

24 BY MR. GEBHARDT:

1 A Well, it was deposited into our  
2 account.  
3 Q Which was the account tied in  
4 with the line of credit?  
5 A Accounts tied in with cash  
6 management system. The only account we had, so  
7 that was the account it went into.  
8 Q Now, this particular \$1.2 million  
9 loan was personally guaranteed by you. Isn't that  
10 right?  
11 A Yes, it was.  
12 Q And would it be fair to say that  
13 the AllFirst representatives expressed to you that  
14 they would not give CCI the additional loan  
15 without your personal guarantee?  
16 A Yes, that's true.  
17 Q And in connection with that  
18 requirement, you actually executed the suretyship  
19 agreement that is Deposition Exhibit 16. Isn't  
20 that right?  
21 A Yes, I did.  
22 ---  
23 (Whereupon the document was  
24 marked for identification as Deposition Exhibit

94

96

1 page, which is the recitation of assets and  
2 liabilities, you had a financial wherewithal to  
3 repay personally without the use of CCI funds, the  
4 \$1.2 million that had been borrowed?  
5 A I would say probably December 31  
6 of '98, it appears that I had enough cash on hand.  
7 Whether or not I would have been able to liquidate  
8 or had the cash to pay, I had the assets.  
9 Q So you would agree that at least  
10 as of December 31, 1998, you had available the  
11 cash to have repaid the \$1.2 million loan and  
12 probably at least as of the year 2000, you had  
13 assets or resources sufficient to enable you, had  
14 you chosen, to personally repay the \$1.2 million  
15 loan?  
16 A Well, I don't know exactly -- I  
17 would have to see what it was at the end of 1999.  
18 But looking at 1998, I had the wherewithal to pay  
19 it back.  
20 Q Prior to this financial statement  
21 that is Exhibit 18, had you ever provided the bank  
22 with a personal financial statement previously?  
23 A I'm sure that I had at some point  
24 in time.

1 No. 18.)  
2 ---  
3 BY MR. GEBHARDT:  
4 Q Exhibit 18 appears to be a  
5 personal financial statement for you that was  
6 prepared by CCI's accountants Brown, Schultz,  
7 Sheridan & Fritz. Do you recognize it as such?  
8 A Appears to be.  
9 Q And this is a statement of your  
10 assets and liabilities as of December 31, 1998.  
11 Right?  
12 A Yes.  
13 Q This was required by AllFirst  
14 before they would agree it to extend the  
15 additional \$1.2 million loan?  
16 A I don't know if they got this  
17 before the loan or after, to tell you the truth.  
18 What's the date, the 9th, so I think they got this  
19 after.  
20 Q And at the time this financial  
21 statement was submitted, was this an accurate  
22 recitation of your assets and liabilities?  
23 A To the best of my knowledge.  
24 Q Based on what I see on the last

95

97

1 Q You can't remember when?  
2 A Well it was probably when the  
3 original relationship began, and if there had been  
4 any personal guarantee of anything, I would have  
5 had -- most likely would have had to give them a  
6 personal financial statement.  
7 Q This \$1.2 million loan was also  
8 secured by some equipment?  
9 A It was secured by, what the  
10 document says, specific equipment financed  
11 including titled vehicles.  
12 ---  
13 (Whereupon the document was  
14 marked for identification as Deposition Exhibit  
15 No. 19.)  
16 ---  
17 BY MR. GEBHARDT:  
18 Q Do you recognize Exhibit 19 as  
19 the security agreement pledging the equipment  
20 references in the commitment letter?  
21 A It refers to the collateral, but  
22 there's nothing attached, so I don't know  
23 specifically what equipment.  
24 Q There's no collateral description

1 A I don't remember seeing anything  
2 from the bank.

3 Q Where did you expect the funds to  
4 come from to repay AllFirst in the 90 days that  
5 you anticipated the \$1.2 million loan to be  
6 outstanding at the end of that time?

7 A Accounts receivable.

8 Q Collections from the normal  
9 course of business?

10 A Yes, or from the sale of  
11 equipment or whatever was occurring in that 90  
12 days that would have put money into our account.

13 Q Did you anticipate the \$4 million  
14 line of credit to have been paid to a zero balance  
15 at that time?

16 A At what time?

17 Q At the time the money came in to  
18 pay the million two.

19 A I don't believe there was any  
20 contemplation -- in other words, it would be a  
21 zero balance?

22 Q Right.

23 A Or, in other words -- no, I think  
24 the understanding from the bank was that that was

102

1 credit?

2 A No.

3 Q Just not discussed?

4 A The only discussed part was, as I  
5 indicated, was the discussion that they understood  
6 that would be paid off within 90 days and that was  
7 going to be ahead of any payments on the \$4  
8 million line.

9 Q So, hypothetically, if the \$4  
10 million line had a \$2 million outstanding balance  
11 and a customer sent in a \$1.2 million of accounts  
12 or payables on CCI's billings, you expected to use  
13 the \$1.2 million coming in from the customer to  
14 pay off the million two loan and just leave the  
15 million dollar balance where it was?

16 MR. BURKE: Could you repeat that  
17 question?

18 BY MR. GEBHARDT:

19 Q Let me rephrase it.

20 Hypothetically, would it have  
21 been your understanding if we assume the \$2  
22 million outstanding on the line of credit and \$1.2  
23 million had come into CCI from a customer, that  
24 you could use that \$1.2 million to pay off the

104

1 a revolving line and that would function as it  
2 always had, fluctuate up and down. In fact, I  
3 made it clear at the signing of the note that that  
4 \$1.2 million note would be paid prior to any time  
5 frame, whether it be a renewal.

6 Q The \$4 million line of credit  
7 commitment letter carried through April 30th and  
8 the one million two carried through March 31, so  
9 there was a disparity in dates, but did you have  
10 any discussions of whether the line of credit  
11 would or would not be brought to a zero balance  
12 before the million two was repaid or not?

13 A There was no specific requirement  
14 the bank placed on me.

15 Q I didn't ask you that. I asked  
16 you whether you had discussions with anyone from  
17 the bank on that topic.

18 A You need to be more specific, I  
19 guess. Just general discussions?

20 Q Yes. In the course of getting  
21 the million two, when you were discussing that,  
22 did you have any discussions about whether at the  
23 time you repaid the million two, you should have a  
24 zero balance on the \$4 million revolving line of

103

105

1 \$1.2 million loan, without first reducing the \$1.2  
2 million loan, without first reducing the \$2  
3 million hypothetically outstanding under the line  
4 of credit?

5 MR. BURKE: Objection to form.

6 A If I chose to, sure. I believe  
7 that was my understanding and I believe that was  
8 the understanding that the bank had.

9 BY MR. GEBHARDT:

10 Q On February 11, 2000, the \$1.2  
11 million loan was repaid. Correct?

12 A Yes.

13 Q Who made the decision to make  
14 that payment to the bank on February 11, 2000?

15 A I did.

16 Q Did you consult with anyone else  
17 in the company about making that payment at that  
18 time?

19 A As I recall, there were  
20 discussions that I had reviewing the cash flow  
21 situation, where things were on the projects, with  
22 the company, and at the end of the discussion or  
23 those meetings or review or whatever, I decided  
24 that it would be best to pay that note off.

106

1 Q You made the decision yourself?  
 2 A Yes.  
 3 Q And did you tell anyone else in  
 4 the company prior to making the payment that  
 5 that's what you were going to do?  
 6 A I think I believe I informed the  
 7 chief operating officer and obviously I informed  
 8 the chief financial officer.  
 9 Q You didn't ask their opinion,  
 10 whether it was in the best interest of the company  
 11 to pay the million two loan off at that time?  
 12 A Well, I did not ask the opinion  
 13 of Ms. Phillips. In conversations that day, the  
 14 day before, I think I made the statement that it  
 15 seemed to be in our best interest and consistent  
 16 with what I had stated to the bank that I would  
 17 do, and basically made the decision, made the  
 18 decision to pay that note back or pay the note off  
 19 or however you want to do it.  
 20 Q Who got the check written to make  
 21 the payment?  
 22 A What do you mean, got the check  
 23 written?  
 24 Q Did you handwrite the check?

108

1 with a series of checks.  
 2 Q Was the check writer used?  
 3 A I take that back. I think the  
 4 way the bank did it is they automatically debited  
 5 our account for interest. I would have to check  
 6 the bank records or their procedure as to how they  
 7 did it, but my understanding is that's how they  
 8 handled the interest.  
 9 Q Now, what was the procedure, what  
 10 was your involvement in the delivery of the check  
 11 to AllFirst?  
 12 A I took it to Mr. Schwartz to --  
 13 at his office.  
 14 Q You personally?  
 15 A Yes.  
 16 Q Why did you personally take the  
 17 check?  
 18 A Because I wanted to talk with  
 19 him, and it presented a very good opportunity for  
 20 me to have a discussion with him.  
 21 Q What did you want to discuss with  
 22 him?  
 23 A A couple of things. I wanted to,  
 24 one, thank him for acting quickly back in October,

107

1 A No, I called Ms. Phillips and  
 2 told her to prepare a check.  
 3 Q This was signed by the machine's  
 4 signature, the check?  
 5 A No. It was a hand check. I  
 6 signed it.  
 7 Q So someone, either Ms. Phillips  
 8 or someone under Ms. Phillips' direction, wrote  
 9 out the check by hand and you signed it?  
 10 A No, just computer-generated and  
 11 called the accounts payable clerk. She would  
 12 basically go into the computer, make out the  
 13 check, hit the button and the check would be  
 14 generated.  
 15 Q The check writer wasn't used?  
 16 A We only used the check writer  
 17 because it was -- just when we had a long series  
 18 of checks to write and this was a series of checks  
 19 that day.  
 20 Q Making interest payments monthly  
 21 to the bank, though, you didn't hand-sign those  
 22 checks, did you?  
 23 A Well, because those were probably  
 24 regular, they would have been set up and printed

109

1 November, when we wanted to borrow the funds, for  
 2 acting quickly in approving it. Also to remind  
 3 him that I was pleased our projections had worked  
 4 themselves through. I was able to pay the note  
 5 when I said I had paid it, and also to talk with  
 6 him about the possibility or what would be  
 7 necessary if I ever wanted to come back and borrow  
 8 again. It presented also an opportunity to begin  
 9 a discussion depending on how the conversation was  
 10 going to what the next steps were in terms of I  
 11 knew the \$4 million line was going to be up for  
 12 renewal and started to talk to him about that.  
 13 So by taking the check over, it  
 14 presented a good opportunity for me to sit and  
 15 have an informal discussion with him.  
 16 Q Did you have an appointment?  
 17 A I called and I believe I had an  
 18 appointment with him, though he was not there.  
 19 Q You had an appointment and he  
 20 didn't show up?  
 21 A No. I called over and spoke to  
 22 either -- I really don't recall. It was either to  
 23 he or his assistant or secretary, whatever, who  
 24 indicated that he would be there at a certain time

1 and I said fine, I would come over to see him.  
 2 Q So you just said, I'm coming by?  
 3 A I said I'm coming over, I wanted  
 4 to meet with him and leave my message, and it was  
 5 to pay the November note, pay it off.  
 6 Q You did --  
 7 A I don't recall, unfortunately,  
 8 whether I spoke to him directly or to his  
 9 assistant, but in either event, I said the same  
 10 thing to either one, that I was coming over to see  
 11 him, and that's when I went to the bank.  
 12 Q You told them you were coming to  
 13 pay off the million two loan?  
 14 A I believe so. I said I was  
 15 coming to see him to pay off the note we had in  
 16 November.  
 17 Q When you got there, Mr. Schwartz,  
 18 as you said, was not present?  
 19 A No, he was not.  
 20 Q So you never met with him on the  
 21 day that you delivered the check?  
 22 A Now, I waited for awhile. I  
 23 think the woman there said he would be returning  
 24 or she thought he would be returning from a

110

112

1 A I believe so. She ask me if she  
 2 could help me and I told her why I was there and  
 3 she said she could take care of that if I wanted.  
 4 Q In practical effect there would  
 5 have been no difference in making the payment on  
 6 that Friday as opposed to the next Monday?  
 7 MR. BURKE: What's the question?  
 8 A Is there a question?  
 9 ---  
 10 (Whereupon the pertinent testimony  
 11 was read by the court reporter.)  
 12 ---  
 13 MR. BURKE: Object to the form.  
 14 I don't believe that's a question.  
 15 A Probably not, no.  
 16 BY MR. GEBHARDT:  
 17 Q When you requested the check, you  
 18 understood that writing that check would result in  
 19 a draw upon the \$4 million line of credit?  
 20 A It may or may not have.  
 21 Q Did you know that writing the  
 22 check would result in a draw on the \$4 million  
 23 line of credit?  
 24 A Well, depending on how the bank

1 meeting shortly, so I waited.  
 2 Q How long did you wait?  
 3 A Half hour, 40 minutes maybe,  
 4 maybe along those lines.  
 5 Q And you didn't take the check  
 6 with you when you left, though?  
 7 A Well, I started to, but the woman  
 8 there asked if she could help me. I told her why  
 9 I was there and she said if I wanted to, she could  
 10 take care of it.  
 11 Q So you gave her the check?  
 12 A Yes, I gave her the check.  
 13 Q And told her which loan it was  
 14 paying off?  
 15 A I said it was paying a loan off.  
 16 I think she looked it up in her system and asked  
 17 me if I wanted a receipt and I said sure, took a  
 18 receipt, left a message for Craig to call me when  
 19 he got back. She apologized that he wasn't there  
 20 or he must have left the meeting and gone to lunch  
 21 or something to that effect, but he was still  
 22 expected back that day.  
 23 Q So solely because the lady asked  
 24 to help you is the reason you left the check?

111

113

1 was accounting for, that could have been the case.  
 2 Q You knew at the time the check  
 3 was written that CCI had an outstanding balance on  
 4 the line of credit, didn't you?  
 5 A I think, yes.  
 6 Q And you knew that writing that  
 7 check would increase the outstanding balance on  
 8 the line of credit?  
 9 MR. BURKE: Objection, asked and  
 10 answered. You can answer it again.  
 11 A Well, do you want to ask the  
 12 question again or repeat it?  
 13 ---  
 14 (Whereupon the pertinent  
 15 testimony was read by the court reporter.)  
 16 ---  
 17 A That would depend on whether or  
 18 not there were funds still sitting in our account  
 19 that would not have been swept by the bank and  
 20 their cash management system. So to the extent  
 21 there were funds prior to that, then I guess there  
 22 would have been a zero impact.  
 23 BY MR. GEBHARDT:  
 24 Q But you didn't know that.

114

1 MR. BURKE: Didn't know what?  
 2 BY MR. GEBHARDT:  
 3 Q Whether there were any deposits  
 4 that had been made that day?  
 5 A That were sitting in our account?  
 6 Q Yes.  
 7 A I know funds had recently come  
 8 in, so I believe there were funds sitting in the  
 9 account, but I couldn't tell you how much.  
 10 Q Did you verify what the  
 11 outstanding balance was or what the deposits had  
 12 been?  
 13 A I verified what our overall  
 14 balance was.  
 15 Q So then you knew that writing  
 16 that check would constitute a draw on the line of  
 17 credit?  
 18 A No.  
 19 MR. BURKE: Objection, asked and  
 20 answered. You can answer again.  
 21 A It would have drawn a line of  
 22 credit only to the extent that the funds had  
 23 possibly been swept by the cash management system.  
 24 BY MR. GEBHARDT:

116

1 Q I understand that, how it works.  
 2 What I'm asking you, your personal belief, at the  
 3 time you wrote the check based on your inquiry as  
 4 to the status of the account and so on, your  
 5 understanding was that writing that check would  
 6 require a draw on the line of credit?

7 MR. BURKE: I object and I am  
 8 going to ask the court reporter to read back the  
 9 previous instances where that question has been  
 10 asked and answered.

11 MR. GEBHARDT: The question  
 12 stands as it is. You have a question pending,  
 13 phrased differently and he can answer this  
 14 particular question as to his personal  
 15 understanding of the account status.

16 MR. BURKE: Read back the last  
 17 question, please.

18 - - -  
 19 (Whereupon the pertinent  
 20 testimony was read by the court reporter.)  
 21 - - -

22 MR. BURKE: Objection again.  
 23 This answer has been asked five times of this  
 24 witness and apparently counsel keeps asking the

115

1 Q What time did you go into  
 2 AllFirst, in the afternoon, after lunch, wasn't  
 3 it?  
 4 A Late morning, early afternoon,  
 5 somewhere in that time frame.  
 6 Q Before you left, you would have  
 7 verified the status of the account that had the  
 8 line of credit facility?  
 9 A Either that or the night before.  
 10 Q And based on the information that  
 11 you had available to you at the time you wrote the  
 12 check, you were of the belief that writing that  
 13 check would require a draw on the line of credit?  
 14 MR. BURKE: Objection for the  
 15 fourth time to the extent that question has been  
 16 asked and answered. I'll let my client answer it  
 17 one more time.  
 18 A Depending on whether or not funds  
 19 had been moved from our account into the cash  
 20 management system, then there would have been no  
 21 impact on the line. To the extent that there was,  
 22 then there would have been an impact theoretically  
 23 on the line.  
 24 BY MR. GEBHARDT:

117

1 same question with the hopes of a different  
 2 answer. I'll let the witness answer the question  
 3 again.

4 MR. GEBHARDT: Let me phrase it  
 5 correctly because the witness has not yet answered  
 6 the question.

7 BY MR. GEBHARDT:

8 Q You indicated you verified the  
 9 status of the account and the line before you  
 10 wrote the check. Right?

11 A I verified that funds had come  
 12 into the company from various sources.

13 Q What funds?

14 A Off projects, sale of equipment.

15 Q You knew the amount of funds that  
 16 had come in?

17 A We had taken in some large  
 18 deposits. Our deposits had increased as we had  
 19 projected them to do so.

20 Q Did you quantify what those  
 21 deposits were before you wrote the check?

22 A Yes. I knew generally the dollar  
 23 amount that we recently had taken in over the  
 24 course of the previous couple of days, even that

<p style="text-align: right;">118</p> <p>1 day.</p> <p>2 Q It was your view at the time you 3 wrote that check that writing that check would not 4 require a draw on the line of credit?</p> <p>5 MR. BURKE: Objection, asked and 6 answered. Answer it again.</p> <p>7 A To the extent that funds had not 8 been swept out of our account by the cash 9 management system, there would have been no impact 10 to the line. To the extent that there was a 11 difference, then by use of the cash management 12 system, funds would have been taken from that.</p> <p>13 BY MR. GEBHARDT:</p> <p>14 Q The question still remains, I 15 understand to the extent there were collections, 16 to the extent there was this, this is how it would 17 work. My question to you still is, when you wrote 18 the check and handed it in to AllFirst, did you 19 believe that you were making a borrowing on behalf 20 of CCI under the line of credit or did you think 21 that were sufficient deposits to cover the 22 payment, you personally at the time you wrote it?</p> <p>23 MR. BURKE: Objection, asked and 24 answered.</p>	<p style="text-align: right;">120</p> <p>1 (Whereupon the pertinent 2 testimony was read by the court reporter.) 3 ---</p> <p>4 A Rephrase that, collected the 5 money.</p> <p>6 BY MR. GEBHARDT:</p> <p>7 Q CCI's cash flow problems had 8 increased as of February 2000 beyond what they 9 were in November of 1999, isn't that true?</p> <p>10 A No, I don't believe that to be 11 the case.</p> <p>12 Q Isn't it a fact that CCI over the 13 next five months, counting from February, was 14 anticipating substantial cash flow shortfalls?</p> <p>15 MR. BURKE: What time frame?</p> <p>16 MR. GEBHARDT: Five-month period 17 counting from February of 2000.</p> <p>18 MR. BURKE: No, the time frame is 19 when did CCI anticipate?</p> <p>20 MR. GEBHARDT: From February.</p> <p>21 A You have to give me the time 22 frame to which to refer to, the date of February 23 11th?</p> <p>24 BY MR. GEBHARDT:</p>
<p style="text-align: right;">119</p> <p>1 BY MR. GEBHARDT:</p> <p>2 Q I understand what could have 3 occurred and might have occurred and different 4 things, but what did you think was the situation 5 when you wrote the check and handed it in?</p> <p>6 MR. BURKE: Same objection. Go 7 ahead.</p> <p>8 A I thought or believed that there 9 were some funds still in our account that had not 10 been swept because there hadn't been time. Those 11 funds were available. That in the tally of it, we 12 had funds available to pay this note off. And so 13 I instructed the check was to be drawn. Whether 14 or not there was impact on the bank's records on 15 the line of credit or not, I can't say. You have 16 to go over the bank's records and see what, if 17 any, impact there would have been.</p> <p>18 Q In fact, CCI had not collected 19 the cash that it had anticipated collecting when 20 the \$1.2 million was borrowed, isn't that true?</p> <p>21 MR. BURKE: Objection to form.</p> <p>22 You can answer.</p> <p>23 A Say that again.</p> <p>24 ---</p>	<p style="text-align: right;">121</p> <p>1 Q February 11th, you knew that CCI 2 was having cash flow problems on February 11th, 3 didn't you?</p> <p>4 MR. BURKE: Objection to form.</p> <p>5 You can answer.</p> <p>6 A I knew that CCI had cash flow 7 problems, issues when I talked to the bank in 8 November, which we clearly told them about. And I 9 would have to say by February 11th, it appeared as 10 though cash flow problems had improved somewhat, 11 but we still had some issues.</p> <p>12 BY MR. GEBHARDT:</p> <p>13 Q You're saying you thought that 14 CCI's cash flow position had improved as of 15 February 11, 2000 beyond what they were in 16 November of 1999?</p> <p>17 A Well, I would have to look at the 18 report, whatever cash report we may have had in 19 November, and compare it to a cash flow report we 20 might have gotten at the end of January or 21 February, and I could more specifically tell you.</p> <p>22 Q I'm not asking for the specific 23 numbers. I'm asking whether at the time you wrote 24 the check, was it your understanding that CCI had</p>

122

1 a cash flow problem that was worse than it had in  
 2 November when the money was borrowed?  
 3 A No, I don't believe it was worse.  
 4 Q You thought it was better?  
 5 A Well, I think it had improved  
 6 somewhat.  
 7 Q And by somewhat, what do you  
 8 mean?  
 9 A By problem, what do you mean?  
 10 Q By problem, I mean not having  
 11 sufficient money to operate the company.  
 12 A Well, we had enough money to  
 13 operate the company at that point, so I guess by  
 14 your definition we didn't have a problem.  
 15 Q You understood that over the  
 16 succeeding months CCI was not going to have  
 17 sufficient funds to operate, didn't you?  
 18 A On what date?  
 19 Q As of February 11th.  
 20 A Not necessarily. I knew that we  
 21 had not necessarily cleared all of our problems,  
 22 but the problem you're saying, we didn't have  
 23 enough money to operate, clearly wasn't the case  
 24 on February the 11th.

1 for the meeting?  
 2 A As I recall.  
 3 Q Let's assume, and I'll represent  
 4 to you that February 17th was a Friday and, of  
 5 course, February 11th was then a Friday, when did  
 6 you call Mr. Schwartz to set the meeting up?  
 7 MR. BURKE: February 17th was a  
 8 Friday or February 18th was a Friday?  
 9 MR. GEBHARDT: February 18th is a  
 10 Friday and February 11th is a Friday and the  
 11 meeting was February the 18th.  
 12 BY MR. GEBHARDT:  
 13 Q My question is: You had payment  
 14 on a Friday and a meeting the succeeding Friday.  
 15 When did you call Mr. Schwartz to set up the  
 16 meeting of February the 18th?  
 17 A I think I called the morning of  
 18 the 18th.  
 19 Q The morning?  
 20 A I think.  
 21 Q So the meeting was in the  
 22 afternoon?  
 23 A I believe so, yes.  
 24 Q Now, when you attended that

123

1 Q We've established you made the  
 2 payment on behalf of CCI on February 11, 2000.  
 3 And I think it's also without dispute there was a  
 4 meeting held in which you attended and there were  
 5 representatives of AllFirst on February the 18th.  
 6 Does February the 18th accord with your  
 7 recollection?  
 8 A On February 18th, I asked for a  
 9 meeting with Mr. Schwartz and Mr. -- well, Mr.  
 10 Schwartz, probably.  
 11 Q And there was a meeting that  
 12 actually was held on February the 18th. Correct?  
 13 A Yes.  
 14 Q That was a Friday?  
 15 A Okay.  
 16 MR. BURKE: Do you know if it was  
 17 a Friday or not?  
 18 BY MR. GEBHARDT:  
 19 Q If you need a calendar, we can  
 20 get one. Was it a Friday?  
 21 A Was it a Friday?  
 22 Q Yes.  
 23 A Okay.  
 24 Q You called Mr. Schwartz to ask

1 meeting, who was present?  
 2 A Well, let's see, the meeting was  
 3 supposed to be with Mr. Schwartz and Mr. Zarcone,  
 4 but also in attendance were about five to six  
 5 other people from the bank, plus two people on the  
 6 speaker phone.  
 7 Q I can represent to you that those  
 8 were Mr. Elias and Mr. Gibson.  
 9 A On the phone?  
 10 Q On the phone, yes. You saw Mr.  
 11 Schwartz there and you saw Mr. Zarcone there?  
 12 A Yes.  
 13 Q And the other people who may have  
 14 been there you don't recollect?  
 15 A Mr. Meyers, Mr. Trout, two or  
 16 three others.  
 17 Q Now, did you ask for all these  
 18 people to be in attendance?  
 19 A No.  
 20 Q Do you have any understanding of  
 21 why all these people attended the meeting?  
 22 A No.  
 23 Q You called up Mr. Schwartz to say  
 24 I would like to meet with you this afternoon and

126

1 you have five people in a meeting and two people  
 2 on an extension phone?

3 A That's right.

4 Q And did that surprise you?

5 A Yes.

6 Q Did you ask why is everybody here  
 7 or something to that nature?

8 A Yes.

9 Q And what were you told?

10 A There really wasn't much of an  
 11 answer.

12 Q Did you tell the bank there were  
 13 major problems with CCI when you called Mr.  
 14 Schwartz?

15 MR. BURKE: Objection to form.  
 16 You can answer.

17 A When I called Mr. Schwartz, I  
 18 said I would like to come in and talk with you,  
 19 that we received an update to some project reports  
 20 and that it looked like the problem with Scott Air  
 21 Force Base in particular had not moved forward to  
 22 the extent I had hoped and I wanted to come in and  
 23 sort of talk to him and tell him, keep him  
 24 informed and tell him where we were at.

128

1 A No.

2 Q When did you contact Mr.  
 3 Chernicoff?

4 A I had talked to Mr. Chernicoff  
 5 for the first time that morning.

6 Q So Mr. Chernicoff had not  
 7 represented CCI or you prior to this meeting on  
 8 February 18th?

9 A Well, the attorneys that I  
 10 typically use, I'll say corporate counsel, is  
 11 located in Pittsburgh, and so I had asked for a  
 12 recommendation for an attorney in Harrisburg who  
 13 was used to dealing with loan documents, bank loan  
 14 documents.

15 MR. BURKE: I will caution the  
 16 witness not to reveal any communications he may  
 17 have had with his lawyer or CCI's lawyer regarding  
 18 anything.

19 A Okay. Anyway --

20 MR. BURKE: What's the question  
 21 again?

22 BY MR. GEBHARDT:

23 Q Had Mr. Chernicoff at any time  
 24 represented CCI or Mr. Ortenzio individually prior

127

1 BY MR. GEBHARDT:

2 Q Did you tell him CCI had suffered  
 3 as of year end a \$6 million loss?

4 A In the phone conversation?

5 Q Yes.

6 A I don't believe so -- I don't  
 7 recall.

8 Q Did you attend by yourself?

9 A I had intended to, but at the  
 10 meeting I did not.

11 Q And who attended with you?

12 A Bob Chernicoff attended.

13 Q This is the same Mr. Chernicoff  
 14 whose office we're in now?

15 A Yes.

16 Q And did you understand at the  
 17 time of that meeting that Mr. Chernicoff was a  
 18 bankruptcy lawyer?

19 A No, I did not.

20 Q You had no idea he was bankruptcy  
 21 lawyer?

22 A No. You mean as far as that  
 23 being his known specialty?

24 Q Right.

129

1 to that February 18th date?

2 A No.

3 Q He was called for the first time,  
 4 then, by you on February 18th?

5 A Yes. I met him for the first  
 6 time.

7 Q At what time did you meet with  
 8 him?

9 A I think I met him probably two  
 10 hours before I was on my way to the bank.

11 Q And you retained Mr. Chernicoff  
 12 based on a recommendation from the company's  
 13 counsel in Pittsburgh?

14 MR. BURKE: When you say you, do  
 15 you mean CCI?

16 MR. GEBHARDT: CCI.

17 MR. BURKE: Let me just speak  
 18 with my client regarding the attorney/client  
 19 privilege issue. You're asking for substantive  
 20 substance of the communication.

21 MR. GEBHARDT: He already said he  
 22 was referred to Chernicoff by lawyers in  
 23 Pittsburgh and I would like a clear answer to the  
 24 statement and I don't think there's any

<p style="text-align: right;">130</p> <p>1 confidentiality of communication expressed in 2 that.</p> <p>3 MR. BURKE: I'll let him answer 4 that so long as it is understood no waiver of 5 attorney/client privilege.</p> <p>6 BY MR. GEBHARDT:</p> <p>7 Q The company's lawyers in 8 Pittsburgh recommended Mr. Chernicoff.</p> <p>9 MR. BURKE: I want your 10 representation that there's no waiver of 11 attorney/client privilege.</p> <p>12 MR. GEBHARDT: There's no waiver 13 of attorney/client privilege.</p> <p>14 MR. BURKE: Did the Pittsburgh 15 lawyers recommend Chernicoff?</p> <p>16 A I'm not sure which one in their 17 firm recommended him.</p> <p>18 BY MR. GEBHARDT:</p> <p>19 Q The question is, did the 20 Pittsburgh lawyers recommend Mr. Chernicoff? It 21 could be answered yes or no.</p> <p>22 A Actually, no, it was an attorney 23 in Harrisburg that had recommended that I see Bob 24 Chernicoff.</p>	<p style="text-align: right;">132</p> <p>1 my loan, which will be done in 60 days, I said, so 2 I need a recommendation of somebody who is 3 familiar, knowledgeable with bank documents and 4 maybe has experience dealing with the people at 5 AllFirst.</p> <p>6 Q Did you have any understanding 7 when you called Mr. Chernicoff that he practiced 8 in the area of bankruptcy law?</p> <p>9 A No.</p> <p>10 Q You didn't know that at all?</p> <p>11 A No. Had I known that, I would 12 not have taken him to the meeting.</p> <p>13 Q But you came to find that out 14 sometime after the meeting?</p> <p>15 A Yes.</p> <p>16 Q When did you first find out Mr. 17 Chernicoff practiced in the area of bankruptcy 18 law?</p> <p>19 A It probably didn't hit me that 20 that was a specialty of his probably for, I guess, 21 a week or ten days.</p> <p>22 Q But you did come to recognize 23 eventually that bankruptcy law was a specialty of 24 Mr. Chernicoff?</p>
<p style="text-align: right;">131</p> <p>1 Q This attorney in Harrisburg, was 2 this an attorney of CCI's?</p> <p>3 A Yes. The firm we had retained, 4 we always had.</p> <p>5 Q Which firm was this?</p> <p>6 A Eckert Seaman's.</p> <p>7 Q And they have a Pittsburgh 8 office, of course?</p> <p>9 A Yes, they have a Pittsburgh 10 office and a Harrisburg office.</p> <p>11 Q What's the name of the attorney 12 that you talked to?</p> <p>13 A There was an attorney in 14 Pittsburgh I talked to who dealt with construction 15 issues and an attorney in Harrisburg, just general 16 advice, so to speak, more of a friend than 17 anything, and because the bank documents I had -- 18 I needed to renegotiate my line of credit with 19 AllFirst bank at some point in time coming up, and 20 they declined because they said that it was touchy 21 because they represented AllFirst also, so they 22 had a little bit of a conflict there. And I said 23 I still need somebody to help, still want to get 24 into bank documents, loan documents, restructuring</p>	<p style="text-align: right;">133</p> <p>1 A Yes.</p> <p>2 Q Why is it you felt the need to 3 take a lawyer to the meeting with the bank to 4 discuss your line of credit?</p> <p>5 MR. BURKE: I'm going to object 6 to the extent the question calls for Mr. Ortenzio 7 to reveal attorney/client communication, and I'll 8 confer with him about this.</p> <p>9 MR. GEBHARDT: Let me say the 10 attorney/client privilege pertains to confidential 11 communications. It does not pertain to 12 information or the witness's personal beliefs or 13 views. My question was, why did he feel the need 14 to obtain an attorney to go to the meeting. I 15 haven't ask him what the attorney said, what he 16 discussed with him or anything.</p> <p>17 MR. BURKE: If the witness felt 18 the need to bring an attorney to the meeting based 19 upon advice given to him by counsel, it does call 20 for an attorney/client communication which is 21 privileged and you're not entitled to.</p> <p>22 BY MR. GEBHARDT:</p> <p>23 Q Is that the statement, you 24 retained Mr. Chernicoff because you were advised</p>

142

1 MR. GEBHARDT: Yes.  
 2 A I would say so, yes.  
 3 BY MR. GEBHARDT:  
 4 Q And all this had gone along for a  
 5 minimum, at least 9, almost 10 years and now  
 6 you're having a meeting you think might possibly  
 7 be adversarial?  
 8 MR. BURKE: I'm going to object  
 9 to the misstatement of his testimony for a second  
 10 time. He didn't say the meeting would be  
 11 adversarial.  
 12 BY MR. GEBHARDT:  
 13 Q Not the meeting, the negotiation  
 14 of the documents. Why did you think the  
 15 negotiation of the renewal of the line of credit  
 16 might become adversarial?  
 17 A That was the term Eckert Seaman's  
 18 used, questioning me as to whether or not it might  
 19 become adversarial or have some difficulties or  
 20 something to that effect. All I said was, I can't  
 21 rule it out. It's possible.  
 22 Q Why couldn't you rule it out?  
 23 A What's that?  
 24 Q Why couldn't you rule it out?

144

1 A -- maybe the term I guess that I  
 2 sort of coined and maybe that's really not --  
 3 you're getting hung up on. Not necessarily  
 4 adversarial, but maybe difficult and, you know,  
 5 because I thought that the company was not in as  
 6 strong a financial condition as it had been the  
 7 previous year, and so there's a possibility that  
 8 the renegotiation of it might become more  
 9 difficult, let's say.  
 10 Q You had not been represented, you  
 11 meaning CCI, had not been represented by counsel  
 12 in connection with the line of credit all the way  
 13 up through December 31, 1999. Isn't that correct?  
 14 A I had an attorney look over, make  
 15 some comments on the November note, made  
 16 recommendations.  
 17 MR. BURKE: Again, let me just --  
 18 counsel, let me just counsel the witness. Let's  
 19 just leave it that you spoke with an attorney  
 20 about the note. Let's not go into what the  
 21 attorney told you or what your discussions were.  
 22 A Okay.  
 23 MR. BURKE: I think he's answered  
 24 the question. Go ahead.

143

1 MR. BURKE: Objection, asked and  
 2 answered. Go ahead and answer.  
 3 A Because it's in the realm of  
 4 possibility.  
 5 BY MR. GEBHARDT:  
 6 Q And nothing other than that,  
 7 that's the only explanation?  
 8 MR. BURKE: Objection. He's  
 9 answered the question.  
 10 BY MR. GEBHARDT:  
 11 Q Because it's in the realm of  
 12 possibility?  
 13 A They asked me the question if  
 14 that was a possibility, that it might become  
 15 adversarial. And they were very nervous about  
 16 anything that would be --  
 17 Q Was there any fact or feature  
 18 about the upcoming negotiations that you can point  
 19 to that led you to the conclusion that there might  
 20 possibly be adversarial discussions or  
 21 negotiations relating to the line of credit?  
 22 A I think what we're getting hung  
 23 up on is the term adversarial which is --  
 24 Q Difficult negotiations.

145

1 MR. GEBHARDT: I don't think he  
 2 finished answering when you interrupted him.  
 3 BY MR. GEBHARDT:  
 4 Q Other than that instance  
 5 regarding the \$1.2 million loan, had the company  
 6 been represented by counsel in connection with the  
 7 other finances from Dauphin Deposit and then  
 8 AllFirst?  
 9 A Represented in the negotiations  
 10 or --  
 11 Q In connection at all.  
 12 A Looking over loan documents?  
 13 Q Did you use a lawyer?  
 14 A I don't believe so.  
 15 Q That's all I was asking.  
 16 A I don't believe that we did.  
 17 Q As the commitment letter  
 18 indicates the loan approval was not -- excuse  
 19 me --  
 20 A Which loan are we talking about?  
 21 Q The 1999 \$4 million line of  
 22 credit commitment indicates that it was not  
 23 subject to renewal until April 30th, 2000. Why  
 24 did you feel the necessity to begin negotiations

146

1 in February of that year?  
 2 A Well, I didn't in February. I  
 3 wasn't planning on negotiating in February.  
 4 Q I thought you indicated the  
 5 reason you called the meeting was to discuss the  
 6 renewal or renegotiation of the line of credit and  
 7 you needed counsel because there might be  
 8 difficult discussions.

9 MR. BURKE: Objection to  
 10 misstatement of prior statement.

11 A You're talking about the meeting  
 12 on the 18th?

13 BY MR. GEBHARDT:

14 Q Yes.

15 A No. That meeting on the 18th was  
 16 not to discuss, at least on my part, not to  
 17 discuss the \$4 million line of credit. I wasn't  
 18 there to discuss any of the notes. I called to  
 19 talk to Craig Schwartz to go in and tell him  
 20 that -- just what was going on with the company.  
 21 One, that the project at Scott Air Force Base was  
 22 still having some problems. Our claim was not  
 23 going to be submitted when we thought it would be,  
 24 that I had a meeting with the bonding company and

148

1 Schwartz as we -- a practice we had always done,  
 2 basically keep him informed what was going on with  
 3 the company, what we were doing, so as I told --  
 4 as I ended up telling a roomful of people, so they  
 5 didn't hear something from somebody else, that  
 6 they heard -- whatever the situation was they  
 7 heard it from me.

8 Q I guess my question then still  
 9 involves, if you were going to sit down with a  
 10 banker and bring him up to date on what had been  
 11 happening with a company, why was a lawyer  
 12 accompanying you?

13 MR. BURKE: I'll object. I  
 14 believe the witness has testified regarding the  
 15 reason the lawyer accompanied him.

16 A I stated the circumstances under  
 17 which he suggested that he come along.

18 BY MR. GEBHARDT:

19 Q I guess the transcript will bear  
 20 us out. I understood you to say that you were  
 21 about to enter into negotiations or you were going  
 22 to begin negotiations about the line of credit.  
 23 You thought there might be some difficulty or we  
 24 will call it complex or whatever kind of issues

147

1 that I had been talking to them about that project  
 2 and another one in particular, and that I had a  
 3 meeting coming up with them and that we were going  
 4 to ask them to give us assistance on that project,  
 5 which is all what I said in the meeting, though I  
 6 was intending the meeting to be Craig Schwartz and  
 7 Mike Zarcone. Instead as you stated, I walked  
 8 into a roomful of people, two people on a  
 9 conference phone, and so it was more of an  
 10 inquisition than a meeting that I had set up.

11 Q You were the only party  
 12 represented by counsel?

13 A Unless one of the other people  
 14 there was an attorney or inhouse counsel, then I  
 15 was the only -- he was the only attorney,  
 16 possibly. I don't know for sure.

17 Q So I'm not confused about what  
 18 you were calling a meeting for. That meeting was  
 19 not to discuss or renegotiate the line of credit  
 20 that CCI had?

21 A No.

22 Q It was just to review the  
 23 company's finances and bring the bank current?

24 A Just to discuss with Craig

149

1 you want, that you might need the assistance of  
 2 counsel to address.

3 MR. BURKE: Objection.

4 MR. GEBHARDT: Let me finish what  
 5 I'm saying first.

6 BY MR. GEBHARDT:

7 Q Therefore, you contacted Mr.  
 8 Chernicoff at the recommendation of other counsel  
 9 and he suggested to attend the meeting, but my  
 10 understanding now you're telling me you were  
 11 simply sitting down to bring the bank up to date  
 12 with what had been happening at CCI.

13 MR. BURKE: Objection. Number  
 14 one, there's no question pending -- and let me  
 15 just finish my objection -- and I object to the  
 16 mischaracterization on several facts as to the  
 17 prior testimony. Counsel --

18 MR. GEBHARDT: I'm not trying to  
 19 quote his prior testimony, but I'm confused --

20 MR. BURKE: Let's limit our  
 21 questions to the facts and what was happening as  
 22 opposed to what was previously testified to.

23 BY MR. GEBHARDT:

24 Q To clear up my confusion, it is

150  
 1 your testimony that you did not meet with the bank  
 2 on February 18, 2000, to discuss the terms of the  
 3 revolving line of credit or its renewal or the  
 4 loan documents pertaining to it, that was not your  
 5 intention when you set the meeting up?

6 A That's correct.

7 Q But you nevertheless, based on  
 8 the recommendation of your normal counsel, Eckert  
 9 Seaman's, the day before the meeting, met with Mr.  
 10 Chernicoff and at Mr. Chernicoff's suggestion had  
 11 Mr. Chernicoff accompany you to the meeting with  
 12 the bank?

13 MR. BURKE: Objection to the  
 14 mischaracterization of the prior testimony.

15 BY MR. GEBHARDT:

16 Q Is that what happened?

17 A The conclusion of my meeting here  
 18 at Cunningham Chernicoff, I got ready to leave,  
 19 Mr. Chernicoff, I had shown him the documents,  
 20 acquired as to where I was going, I told him where  
 21 I was going and why I was going there and he  
 22 suggested -- asked if I was going by myself and I  
 23 said yes and he suggested, if I wanted it might be  
 24 good for him to tag along or come along. That was

152  
 1 going to need more cash.  
 2 Q And had to come from the bank or  
 3 bonding company?

4 A I didn't ask the bank for it.

5 Q Did you tell Mr. Schwartz that  
 6 you expected CCI to have sustained a \$6 million  
 7 loss for 1999?

8 A At the meeting or phone  
 9 conversation?

10 Q Well, let's talk about the phone  
 11 conversation prior to the meeting.

12 A I don't think so. I don't think

13 I went into too many facts with Mr. Schwartz. I  
 14 told him we were having some problems, I think. I  
 15 told him we were going to have significant loss,  
 16 certainly a loss for 1999, since we were unable  
 17 to -- depending on whether he was able to  
 18 recognize a claim, but I didn't go into too much  
 19 detail because I wanted to meet with him face to  
 20 says.

21 ---

22 (Whereupon the document was  
 23 marked for identification as Exhibit Number 25.)

151  
 1 it. So after thinking about it, I said there is  
 2 no harm to be done, and I said fine.

3 Q You knew prior to walking into  
 4 the meeting with the bank that CCI was going to  
 5 suffer substantial cash flow shortages over the  
 6 next five to six months?

7 MR. BURKE: Objection to form. You  
 8 can answer.

9 A I had received a recent cash  
 10 flow -- worst case cash flow scenario which showed  
 11 that we were going to have more serious cash flow  
 12 problems in the future months and I took that  
 13 information that I had received, I think I  
 14 probably received it that morning.

15 BY MR. GEBHARDT:

16 Q This was Friday morning also?

17 A I think it was either Friday  
 18 morning or the end of the day Thursday. Received  
 19 the information, worst case scenario, but all the  
 20 same it was still a scenario and it was -- I felt  
 21 the need to inform the bank.

22 Q Tell them you needed more cash at  
 23 that time?

24 A Basically a projection we were

153  
 1 BY MR. GEBHARDT:

2 Q I've handed you Deposition  
 3 Exhibit 25 which I will represent to you are notes  
 4 taken by Mr. Jamin Gibson, the first page being  
 5 notes he made after the initial call to him from  
 6 Mr. Schwartz advising of the meeting and the  
 7 second page of notes and thereafter from the  
 8 meeting and times after the meeting. You'll  
 9 notice on the first page somewhere down around the  
 10 middle there's a reference to a \$6 million loss  
 11 for the year. My question would be, you had never  
 12 spoken to Mr. Gibson prior to February 18th?

13 A That's correct.

14 Q And if these are notes of Mr.  
 15 Gibson's conversation with Mr. Schwartz setting up  
 16 the meeting, the \$6 million figure would have had  
 17 to come from someplace. Isn't that right?

18 MR. BURKE: I'm going object to  
 19 the form of the question and the use of this  
 20 document. Are you asking --

21 BY MR. GEBHARDT:

22 Q I'm asking if it refreshes your  
 23 recollection as to whether you may have divulged  
 24 to Mr. Schwartz in setting up the meeting that you

<p style="text-align: right;">158</p> <p>1 that these numbers are inaccurate?  2 MR. BURKE: Objection to form.  3 BY MR. GEBHARDT:  4 Q Based on the company's records.  5 A I would have to say that probably  6 our records were pretty good. So if that's what  7 we internally generated, then I would say it was a  8 high probability they would be close to being  9 accurate. Only because in the past our  10 information had been relatively accurate.  11 Q Turning to the balance sheet for  12 the same period, would you agree, sir, that it  13 shows CCI on Page 2 to be insolvent to the tune of  14 \$995,762.87?  15 MR. BURKE: Objection to form.  16 A That was the negative equity.  17 BY MR. GEBHARDT:  18 Q So assuming the accuracy of these  19 internally generated numbers as of the date, the  20 13-month date of these statements, CCI was  21 insolvent. Is that right?  22 MR. BURKE: Objection to the form  23 of the question.  24 A Well, that depends. You're</p>	<p style="text-align: right;">160</p> <p>1 BY MR. GEBHARDT:  2 Q Which in laymen's terms shows CCI  3 to be insolvent. Isn't that right?  4 MR. BURKE: Same objection. The  5 witness can answer if he can.  6 A It shows negative equity of  7 \$995,000.  8 Q In laymen's terms that means  9 insolvent?  10 MR. BURKE: I'm going to object.  11 The witness has answered the question. The  12 document speaks for itself and the witness has  13 already indicated the document provides what it  14 provides.  15 BY MR. GEBHARDT:  16 Q Does it mean insolvent?  17 A I don't know. I would have to  18 look further into -- I think it would require  19 further investigation rather than a summary  20 balance sheet.  21 Q You're not able to answer?  22 MR. BURKE: Based on the two  23 documents that you've shown him, he says he's not  24 able to answer.</p>
<p style="text-align: right;">159</p> <p>1 carrying a million, almost \$2 million of  2 depreciation on this statement. So if you back  3 that out --  4 BY MR. GEBHARDT:  5 Q We're not talking of an income  6 statement where you can count depreciations as a  7 deduction, used equipment that lost value over  8 time, you don't add depreciation back in on the  9 balance sheet.  10 MR. BURKE: We're not here to  11 debate accounting principles. Let's let the  12 witness answer.  13 A I only made the comment it shows  14 \$2 million worth of the depreciation in arriving  15 at the total. That's all. You can take that for  16 what it's worth.  17 BY MR. GEBHARDT:  18 Q This statement shows CCI to be  19 insolvent?  20 MR. BURKE: Objection to the  21 form. The document speaks for itself. The  22 witness can answer.  23 A It says what it says. It shows  24 negative equity of \$995,000.</p>	<p style="text-align: right;">161</p> <p>1 BY MR. GEBHARDT:  2 Q How often did the company  3 generate internal statements such as the ones that  4 are Exhibits 23 and 24?  5 MR. BURKE: That's 22 and 23.  6 A Once a month.  7 BY MR. GEBHARDT:  8 Q And they were shown to you?  9 A I saw them.  10 Q And that would be each month  11 during the 12-month period?  12 A For the most part, yeah.  13 Q So you were kept apprised of the  14 financial situation of the company throughout the  15 year on a current basis?  16 A Generally speaking.  17 Q Let me hand you what has been  18 marked as Exhibit 24. Would I be correct that  19 this is the cash flow projection that you handed  20 out at the meeting on February 18th?  21 A I believe it is.  22 Q And this was prepared by CCI?  23 A Yes.  24 Q In handing this out to AllFirst</p>

182

1 when all was said and done?  
 2 Q As of today.  
 3 A Yes, as of today.  
 4 Q What magnitude is there?  
 5 A They're representing  
 6 approximately a \$32 million loss.  
 7 Q During the meeting with the bank  
 8 on February 18th, did you disclose to anyone that  
 9 the \$1.2 million had been repaid by a draw on the  
 10 line of credit?  
 11 MR. BURKE: Objection to form.  
 12 You can answer.  
 13 A My statement in that meeting was  
 14 in response to the question, was it had been  
 15 repaid, the company had repaid.  
 16 BY MR. GEBHARDT:  
 17 Q Did you tell anyone that by  
 18 repaying the loan it was done with a draw on the  
 19 line of credit?  
 20 MR. BURKE: Same objection.  
 21 A My words were to ask if it had  
 22 been repaid, and I said that the company, CCI, had  
 23 repaid the note.  
 24 BY MR. GEBHARDT:

184

1 understanding of what CCI's financial condition  
 2 was as is reflected on the two financial  
 3 statements that are Exhibits 22 and 23 and the  
 4 cash flow statement that is Exhibit 24?  
 5 MR. BURKE: Objection to form.  
 6 A No.  
 7 BY MR. GEBHARDT:  
 8 Q Completely unaware?  
 9 A I'm responding to your question,  
 10 specifically your question.  
 11 Q You had no general understanding  
 12 when you --  
 13 A That wasn't your question.  
 14 Q I think it was.  
 15 MR. BURKE: It wasn't.  
 16 BY MR. GEBHARDT:  
 17 Q Let me ask it again. When you  
 18 made the payment on behalf of CCI on February 11,  
 19 2000, did you have a general understanding that  
 20 the financial condition of CCI was similar to  
 21 what's reflected in Exhibits 22, 23 and 24?  
 22 A And my answer was no. The  
 23 financial condition of the company was not to that  
 24 degree. It wasn't as bad as those numbers

183

1 Q But you didn't give any  
 2 explanation beyond that?  
 3 A I think someone asked -- I think  
 4 I said with a check drawn out of our account or  
 5 something to that effect.  
 6 Q When you made the payment on  
 7 February 11th, were you aware of the financial  
 8 circumstances of the company?  
 9 A At that time, that point in time?  
 10 Q Yes.  
 11 A Generally.  
 12 Q And were you aware of the  
 13 financial circumstances of the company that were  
 14 reflected on the interim financial statements  
 15 which are Exhibits 22 and 23 and the cash flow  
 16 projection which I believe is Exhibit 24?  
 17 MR. BURKE: Objection to form.  
 18 ---  
 19 (Whereupon the court reporter  
 20 read back the pertinent testimony.)  
 21 ---  
 22 BY MR. GEBHARDT:  
 23 Q When you made the payment on  
 24 February 11, 2000, did you have a general

185

1 represent.  
 2 Q And in one week did it turn that  
 3 bad?  
 4 MR. BURKE: Objection to form.  
 5 You can answer.  
 6 A I think in one week there was a  
 7 different scenario run with the removing of the  
 8 claims that we had hoped to get. I think there  
 9 were some other impacts on a job or two which had  
 10 been unanticipated with respect to some additional  
 11 problems or delays. And so when the numbers were  
 12 rerun, and this is what they were rerun to, it  
 13 presented a much worse situation financially for  
 14 the company than what we had been carrying prior  
 15 to them or what I had been aware of prior to that.  
 16 Q You knew when you made the  
 17 payment that CCI's financial condition was not a  
 18 good financial condition, didn't you?  
 19 A Good as compared to what? You  
 20 already asked me how it was in comparison to what  
 21 it was in November.  
 22 Q When you made the payment on  
 23 February 11th, you knew CCI was going to lose  
 24 money for the preceding fiscal year?

186

1 A I knew we were going to lose  
 2 money. I did not know we were going to lose money  
 3 to the extent -- even to this projection here or  
 4 this financial report here.

5 Q When you made the payment on  
 6 February 11th on behalf of CCI, you understood CCI  
 7 or had a general appreciation that CCI was going  
 8 to sustain cash flow shortages, shortfalls?

9 A I had a general understanding  
 10 that we were -- my understanding at that point in  
 11 time was that we were not out of the woods,  
 12 certainly, with respect to our cash flow problems,  
 13 but you're referring to the magnitude and the  
 14 magnitude presented with these numbers was not  
 15 known to me on February 11th.

16 Q But you knew still there was a  
 17 problem?

18 MR. BURKE: Objection to form.

19 A Well, you know, problem, give me  
 20 something in order of magnitude.

21 MR. BURKE: Can you define  
 22 problem?

23 A Problem compared to --

24 BY MR. GEBHARDT:

188

1 CERTIFICATE

2  
 3 I, DONNA L. CROSSAN, a  
 4 Reporter Notary-Public and Certified Shorthand  
 5 Reporter of the State of Pennsylvania, do hereby  
 6 certify that prior to the commencement of the  
 7 examination, JOHN M. ORTENZIO was duly sworn by me  
 8 to testify the truth, the whole truth and nothing  
 9 but the truth.

10 I DO FURTHER CERTIFY that the  
 11 foregoing is a true and accurate transcript of the  
 12 testimony as taken stenographically by and before  
 13 me at the time, place and on the date hereinbefore  
 14 set forth, to the best of my ability.

15 I DO FURTHER CERTIFY that I  
 16 am neither a relative nor employee nor attorney  
 17 nor counsel of any of the parties to this action,  
 18 and that I am neither a relative nor employee of  
 19 such attorney or counsel, and that I am not  
 20 financially interested in this action

21 \_\_\_\_\_  
 22 Notary Public of the State of Pennsylvania

23 Dated:

24 \_\_\_\_\_

187

189

1 Q A Difficulty -- you  
 2 understood when you made the payment, CCI was  
 3 anticipating having cash shortages over the  
 4 succeeding months?

5 A We were still going to have some  
 6 cash flow problems in the future months. Now the  
 7 magnitude, in my estimation, was not to the degree  
 8 that Exhibits 22, 23 and 24 projected.

9 MR. GEBHARDT: That's all I have.  
 10 (The deposition concluded at 6:25 p.m.)

1 LAWYER'S NOTES

2 PAGE	3 LINE
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# Craig J. Schwartz

<p style="text-align: right;">Page 1</p> <p>1        IN THE UNITED STATES DISTRICT COURT    2        FOR THE MIDDLE DISTRICT OF PENNSYLVANIA    3        ALLFIRST BANK :    4        Plaintiff :    5        v. : CA NO. 1:CV-01-0786    6        JOHN M. ORTENZIO :    7        Defendant : Pages 1 - 216    8        -----    9    10    11    12      Deposition of Craig J. Schwartz    13      Baltimore, Maryland    14      Friday, February 15, 2002    15    16    17    18    19    20    21      Reported by: Kathleen R. Turk, RPR-RMR</p>	<p style="text-align: right;">Page 3</p> <p>1        APPEARANCES:    2    3        Gebhardt &amp; Smith, L.L.P.    4        For the Plaintiff ALLFIRST BANK    5        The World Trade Center    6        401 East Pratt Street    7        Ninth Floor    8        Baltimore, MD 21202    9        (410) 385-5100    10      BY: Lawrence J. Gebhardt, Esq.    11    12      Blank, Rome, Comisky &amp; McCauley, L.L.P.    13      For the Defendant JOHN M. ORTENZIO    14      One Logan Square    15      Philadelphia, PA 19103-6998    16      (215) 569-5641    17      BY: Edward I. Swichar, Esq.    18    19      Also Present:    20      John M. Ortenzio    21</p>
<p style="text-align: right;">Page 2</p> <p>1    2    3    4    5        February 15, 2002    6        10:17 a.m.    7    8        Deposition of Craig J. Schwartz held at the offices    9        of:    10    11    12      Blank, Rome, Comisky &amp; McCauley, L.L.P.    13      250 West Pratt Street    14      Eleventh Floor    15      Baltimore, MD 21201    16    17    18      Pursuant to notice, before Kathleen R. Turk, RPR-RMR,    19      a Notary Public of the State of Maryland.    20    21</p>	<p style="text-align: right;">Page 4</p> <p>1    2        C O N T E N T S    3        EXAMINATION OF CRAIG J. SCHWARTZ BY:                    PAGE:    4        MR. SWICHAR:    6    5        MR. GEBHARDT:    175    6        MR. SWICHAR:    192    7        MR. GEBHARDT:    207    8        MR. SWICHAR:    210    9        E X H I B I T S    10      SCHWARTZ DEPOSITION EXHIBITS:                            PAGE:    11      1 Commercial Loan Note Line of Credit                    6    12      2 Complaint    6    13      3 Fax to Nord from Gibson, 2/14/01                    6    14      4 PA Commercial Loan Writeup                            6    15      5 Memo to File from Schwartz, 11/4/99                    6    16      6 Discussion Outline, 11/2/99                            6    17      7 Commercial Loan Note Line of Credit                    6    18      8 Letter to Ortenzio from Schwartz, 11/5/99            6    19      9 Accumulated Tran List    6    20      10 Memo to Gibson from Schwartz, 3/3/00                6    21      11 Borrower Rating Summary                                    6</p>

## Craig J. Schwartz

<p style="text-align: right;">Page 149</p> <p>1 1.2 million dollars. I said, okay, fine.</p> <p>2 I was out on other business when, when he</p> <p>3 came in and presented the payment. I was told about</p> <p>4 it when I got back. And --</p> <p>5 Q What were you told?</p> <p>6 A That Mr. Ortenzio came in and paid off the</p> <p>7 1.2 million dollar loan.</p> <p>8 Q Okay. What happened next?</p> <p>9 Did you take any action of any kind?</p> <p>10 A Not that I recall.</p> <p>11 Q Well, at a certain point, you returned the</p> <p>12 note to him, correct?</p> <p>13 A No, I did not.</p> <p>14 I returned his surety.</p> <p>15 Q Okay. You --</p> <p>16 A He was -- yes.</p> <p>17 Q Okay. You returned the surety, and we'll</p> <p>18 come to that in a minute.</p> <p>19 Where did you think the -- what funds did</p> <p>20 you think were being used to pay off the 1.2, or you</p> <p>21 didn't think about it?</p>	<p style="text-align: right;">Page 151</p> <p>1 think we marked it, so I just want to confirm that</p> <p>2 Schwartz 12 is the -- what I'll call the loan</p> <p>3 commitment letter because I know you like that letter.</p> <p>4 Let's look at it, and at least tell me that</p> <p>5 that is, indeed, the loan commitment letter.</p> <p>6 A This is a commitment letter for the four</p> <p>7 million dollar line of credit.</p> <p>8 Q Okay, that's all.</p> <p>9 Would you look at Exhibit S-13, which is</p> <p>10 your letter to Mr. Ortenzio at CCI dated February 15,</p> <p>11 2000?</p> <p>12 A Yes.</p> <p>13 Q How did you determine that the 1.2 million</p> <p>14 dollar loan had been paid in full as of February 11?</p> <p>15 A I looked on the computer.</p> <p>16 Q And what did the computer show?</p> <p>17 A A zero balance.</p> <p>18 Q Okay. Did that computer screen deal only</p> <p>19 with the 1.2, or would it have looked at, more</p> <p>20 specifically, at the cash management account, the</p> <p>21 checking account, the four million dollar line of</p>
<p style="text-align: right;">Page 150</p> <p>1 A I don't recall thinking about it.</p> <p>2 Q Okay. Frankly, you didn't care.</p> <p>3 A I didn't say that.</p> <p>4 Q I'm asking.</p> <p>5 A Sure, I cared.</p> <p>6 Q Well, but you didn't ask, did you --</p> <p>7 A No.</p> <p>8 Q -- the source of the funds?</p> <p>9 A No.</p> <p>10 Q But you cared?</p> <p>11 A Yes.</p> <p>12 Q Why did you care?</p> <p>13 A In hopes that their cash flow situation was</p> <p>14 back where they said it was going to be at that point;</p> <p>15 it was going to be great, we didn't have a big problem</p> <p>16 to worry about, and things were going well for them.</p> <p>17 Q But you never cared enough to call</p> <p>18 Mr. Ortenzio to find out the source of the funds?</p> <p>19 A I did not call Mr. Ortenzio.</p> <p>20 Q All right. I don't think -- I think we</p> <p>21 talked about the loan commitment letter, but I don't</p>	<p style="text-align: right;">Page 152</p> <p>1 credit, et cetera, et cetera?</p> <p>2 A Just the 1.2.</p> <p>3 Q Okay. But you had the other means of</p> <p>4 checking to see what the availability was and the</p> <p>5 balance was of the four million?</p> <p>6 A I had the means.</p> <p>7 Q You chose not to go into that?</p> <p>8 A I don't recall if I did or if I didn't.</p> <p>9 Q Is it possible you did?</p> <p>10 A I don't recall.</p> <p>11 Q You don't recall either way?</p> <p>12 A Correct.</p> <p>13 Q Okay. Was this mailed or hand-delivered,</p> <p>14 S-13?</p> <p>15 A I don't recall.</p> <p>16 Q Did you ever inquire the source of payment?</p> <p>17 A No.</p> <p>18 Q Okay. Now, when Mr. Ortenzio on behalf of</p> <p>19 CCI wrote a check and repaid the 1.2 million dollar</p> <p>20 note, he was acting on behalf of CCI as an officer; is</p> <p>21 that correct?</p>

## Craig J. Schwartz

<p style="text-align: right;">Page 173</p> <p>1 of any custom or practice in the banking industry that  2 requires a borrower to repay a guaranteed loan with  3 funds other than -- which prohibits a borrower from  4 repaying a guaranteed loan from a draw on a  5 nonguaranteed loan?</p> <p>6 MR. GEBHARDT: Objection.  7 Custom and practice is not a law.  8 MR. SWICHAR: Well, I'm using your  9 quote. I wrote it down when you said ordinary banking  10 custom and practice.  11 MR. GEBHARDT: Right, but you're saying  12 is there a custom and practice that prohibits.  13 MR. SWICHAR: Yes.  14 MR. GEBHARDT: Well, banking customs  15 and practices don't prohibit anything. They're not  16 law. They're how --  17 MR. SWICHAR: I'm asking -- I think the  18 whole banking custom or practice would be irrelevant  19 in this case, but you brought it up.  20 MR. GEBHARDT: It's your expert --  21 MR. SWICHAR: You said you may use him</p>	<p style="text-align: right;">Page 175</p> <p>1 EXAMINATION BY COUNSEL FOR THE PLAINTIFF  2 BY MR. GEBHARDT:  3 Q Mr. Schwartz, this particular four million  4 dollar line of credit was, as I think the testimony  5 has been and is reflected in the note, was tied to a  6 cash management facility, right?  7 A Yes.  8 Q And the cash management facility would kick  9 in basically at the end of each day, right?  10 A Yes.  11 Q And would I be correct that one would take  12 the total number of checks and deposits that came in  13 to the credit of CCI and then compare them to the  14 total number of checks that CCI had issued and that  15 were presented to the bank for payment on each day?  16 A Yes.  17 MR. SWICHAR: Well, I object because I  18 don't know if the computer made that comparison. I  19 think it works differently.  20 MR. GEBHARDT: Well, I'm asking the  21 witness.</p>
<p style="text-align: right;">Page 174</p> <p>1 for that purpose if I use him, so I'm --  2 MR. GEBHARDT: Your expert --  3 MR. SWICHAR: -- hypothetically asking  4 him the question.  5 Q (By Mr. Swichar) Are you aware of any  6 banking custom or practice which prohibits a borrower  7 from paying off a guaranteed loan from a loan that is  8 not guaranteed?  9 A Not to my recollection.  10 Q Okay. Would your answer change if I said to  11 you are you aware of any banking practice or custom  12 that prohibits a borrower from paying off a guaranteed  13 loan with -- from a nonguaranteed line of credit if it  14 is in financial distress?  15 MR. GEBHARDT: Objection.  16 A Not to my recollection.  17 Q All right.  18 MR. SWICHAR: Well, I'm done.  19 MR. GEBHARDT: I have some questions.  20 MR. SWICHAR: Sure.  21 ----</p>	<p style="text-align: right;">Page 176</p> <p>1 MR. SWICHAR: Yeah, but you're telling  2 the witness.  3 So why don't you just ask him questions  4 how it works?  5 Q (By Mr. Gebhardt) If there was a greater  6 number of checks presented for payment than there were  7 deposits received, what would be the effect?  8 A A draw on the line of credit.  9 Q Suppose there was an excess of checks  10 received to the credit of CCI's account over items  11 presented for payment?  12 A A payment on the line of credit.  13 Q And suppose the line of credit had been  14 fully repaid?  15 A An investment would occur.  16 Q So there would be a positive balance in  17 CCI's account?  18 A Yes.  19 Q And what would happen -- would that positive  20 balance earn interest?  21 A Yes.</p>

## Craig J. Schwartz

<p style="text-align: right;">Page 177</p> <p>1 Q And do you recollect whether under the terms 2 of the line of credit CCI was required to have the 3 line of credit at a zero balance for thirty 4 consecutive days in a twelve-month period?</p> <p>5 MR. SWICHAR: Could I hear that back? 6 (Question was read by the Reporter.)</p> <p>7 MR. SWICHAR: I don't understand the 8 question, but if your own witness does, fine. 9 And if there is a document, why don't 10 you just show it to him?</p> <p>11 MR. GEBHARDT: Actually, I will 12 withdraw the question because the March 23rd, 1999, 13 commitment does not have that as a requirement, but 14 the preceding one did.</p> <p>15 So we're operating under what's been 16 designated Schwartz 12, so I will withdraw the 17 question.</p> <p>18 Q (By Mr. Gebhardt) Now, turning to Schwartz 19 Exhibit 12, which is the commitment letter for the 20 four million dollar revolving line of credit, what 21 were the proceeds of draws on the line of credit to be</p>	<p style="text-align: right;">Page 179</p> <p>1 I'm just objecting. 2 MR. GEBHARDT: Then object.</p> <p>3 Q (By Mr. Gebhardt) The line of credit was 4 intended to permit CCI to have funds available pending 5 the receipt of payment from customers on the accounts 6 receivable?</p> <p>7 A Yes.</p> <p>8 Q You were asked some questions relating to 9 the payment of the monthly installments on the two 10 million dollar equipment term loan.</p> <p>11 Do you recollect those?</p> <p>12 A Yes.</p> <p>13 Q And I think your testimony was that they 14 were made through the use of the revolving, four 15 million dollar revolving line of credit, right?</p> <p>16 A Yes.</p> <p>17 MR. SWICHAR: No, I don't think he said 18 that.</p> <p>19 I think he said the repayments were 20 made either through checks or automatic, and then we 21 went to the next step, which was the impact of it.</p>
<p style="text-align: right;">Page 178</p> <p>1 used to do?</p> <p>2 A Finance work in process and accounts 3 receivable.</p> <p>4 Q Is repaying in full any fully funded loan or 5 credit facility an authorized use of loan proceeds?</p> <p>6 MR. SWICHAR: I object to the form of 7 the question.</p> <p>8 Q You may answer.</p> <p>9 THE WITNESS: Read it back, please. (Question was read by the Reporter.)</p> <p>11 MR. SWICHAR: I object to the form, 12 particularly the word authorized.</p> <p>13 A No.</p> <p>14 Q (By Mr. Gebhardt) Okay. Now, what exactly 15 are accounts receivable?</p> <p>16 A Payments from customers of the borrower for 17 services rendered.</p> <p>18 Q Okay. And this line of credit was intended 19 to provide CCI with --</p> <p>20 MR. SWICHAR: Are you just leading him 21 down?</p>	<p style="text-align: right;">Page 180</p> <p>1 Q Was making the monthly installments of 2 principal and interest on the equipment term loan an 3 authorized use of the four million dollar revolving 4 line of credit?</p> <p>5 A Yes.</p> <p>6 Q Why is that?</p> <p>7 A Because a term loan is to be repaid, of 8 course, over a period of time, monthly, and through 9 profits of the company, and those profits are a part 10 of the receivables that they come in. So that line is 11 used because that -- the profits are in -- a part of 12 the accounts receivable, and the line gets paid down 13 that way.</p> <p>14 (Gerard L. Elias entered the conference 15 room.)</p> <p>16 Q Had there been no term loan from CCI -- 17 no -- excuse me, let me rephrase that.</p> <p>18 Assume there had been no four million dollar 19 line of credit, what would the source of payment have 20 been for CCI to repay the monthly installments of 21 principal and interest on the two million dollar</p>

## Craig J. Schwartz

<p style="text-align: right;">Page 181</p> <p>1 equipment loan?</p> <p>2 MR. SWICHAR: Objection as to form.</p> <p>3 A Excess cash flow.</p> <p>4 Q Where would that come from?</p> <p>5 A The collection of accounts receivable.</p> <p>6 Q Okay. Now, when the 1.2 million dollar loan</p> <p>7 was paid off on February 11, 2000, with a draw on the</p> <p>8 four million dollar revolving line of credit, I</p> <p>9 believe the testimony has been that a check was</p> <p>10 delivered by Mr. Ortenzio to make that payment.</p> <p>11 Does that accord with your recollection?</p> <p>12 A Yes.</p> <p>13 Q Was that payment delivered directly to you?</p> <p>14 A No.</p> <p>15 Q Were you at any time ever told by anyone at</p> <p>16 or about February 11, 2000, that that check</p> <p>17 represented a draw on the four million dollar</p> <p>18 revolving line of credit?</p> <p>19 A No.</p> <p>20 Q Had you known on or about February 11, 2000,</p> <p>21 that the check presented by Mr. Ortenzio on behalf of</p>	<p style="text-align: right;">Page 183</p> <p>1 because the cash flow situation of the company was in</p> <p>2 a depo -- disposition.</p> <p>3 Q Did Mr. Ortenzio express at all how long he</p> <p>4 believed that cash flow problem would continue?</p> <p>5 A I believe some cash flow projections given</p> <p>6 to us indicated February, through the end of February.</p> <p>7 Q And from what source based on your</p> <p>8 discussions with Mr. Ortenzio in November of 1999 did</p> <p>9 you anticipate the 1.2 million dollar loan being</p> <p>10 repaid?</p> <p>11 A Excess cash flow.</p> <p>12 Q Okay. And based on Mr. Ortenzio's</p> <p>13 discussions, did you expect that excess cash flow to</p> <p>14 put CCI in a positive cash position?</p> <p>15 A Yes.</p> <p>16 Q And would you have expected at the time of</p> <p>17 the 1.2 million --</p> <p>18 MR. SWICHAR: Object to all these</p> <p>19 leading questions.</p> <p>20 MR. GEBHARDT: That's fine.</p> <p>21 Q (By Mr. Gebhardt) Would you have expected</p>
<p style="text-align: right;">Page 182</p> <p>1 CCI represented a draw on the four million dollar</p> <p>2 revolving line of credit, what action, if any, would</p> <p>3 you have taken?</p> <p>4 A I would have not honored the check.</p> <p>5 Q If Mr. Ortenzio had called you prior to</p> <p>6 bringing the check in and expressly stated that he</p> <p>7 intended to pay the 1.2 million dollar loan with a</p> <p>8 draw on the four million dollar revolving line of</p> <p>9 credit, what would your response to Mr. Ortenzio have</p> <p>10 been?</p> <p>11 MR. SWICHAR: Objection to form.</p> <p>12 A No, don't bother, or why are you paying it</p> <p>13 off with the line?</p> <p>14 Q Now, when the --</p> <p>15 MR. SWICHAR: Do you want the answer to</p> <p>16 that?</p> <p>17 Q When the 1.2 million dollar line of</p> <p>18 credit -- excuse me -- when the 1.2 million dollar</p> <p>19 loan was discussed, what did Mr. Ortenzio tell you was</p> <p>20 the reason CCI needed that advance of funds?</p> <p>21 A They needed the money to keep operating</p>	<p style="text-align: right;">Page 184</p> <p>1 the 1.2 million dollar loan had it been repaid from</p> <p>2 the excess cash flow for there to have been a positive</p> <p>3 balance on the four million dollar revolving line of</p> <p>4 credit?</p> <p>5 A I would have expected the line to have a</p> <p>6 zero balance.</p> <p>7 Q Now, you were asked --</p> <p>8 MR. SWICHAR: Wait.</p> <p>9 Can I hear that question and answer</p> <p>10 back again?</p> <p>11 (Record was read by the Reporter.)</p> <p>12 Q (By Mr. Gebhardt) Now, I believe the</p> <p>13 documents establish based on the commitment letters</p> <p>14 that the 1.2 million dollar loan was to be due on</p> <p>15 March 31, 2000, if not demanded sooner, and that the</p> <p>16 four million dollar line of credit expired on</p> <p>17 April 30, 2000.</p> <p>18 What was your anticipation of what would</p> <p>19 occur had CCI Construction not had sufficient cash</p> <p>20 flow to repay the 1.2 million dollar loan by March 31,</p> <p>21 2000?</p>

46 (Pages 181 to 184)

## Craig J. Schwartz

<p style="text-align: right;">Page 189</p> <p>1 Q Now, I think you indicated that you did not    2 know when you spoke with Mr. Ortenzio on or about    3 February 11 what the source of the payment might have    4 been that repaid the 1.2 million dollar loan.    5 A That's correct.    6 Q Do you know whether, based on your activity    7 as an account officer, whether Mr. Ortenzio had the    8 personal financial ability to have made that payment?    9 MR. SWICHAR: Objection as to form.    10 A Yes, I believe he did.    11 Q Did you know for a fact whether CCI had    12 accounts with any other banks at the time?    13 A I was not aware of any.    14 Q But did you know one way or the other?    15 A No.    16 Q Did you know whether CCI was into the line    17 of credit at the time the payment was made?    18 MR. SWICHAR: Objection.    19 I don't know what that means, into the    20 line of credit.    21 Q Had a positive balance on the line of credit   </p>	<p style="text-align: right;">Page 191</p> <p>1 directly?    2 A Yes.    3 Q And was any sense of urgency expressed by    4 Mr. Ortenzio in the call requesting the return of the    5 suretyship?    6 A Yes, it would have had to be for me to go    7 through the process to get the surety back quicker    8 than the normal course of business.    9 MR. SWICHAR: That's not responsive.    10 I object to the answer, form of the    11 answer.    12 Q Did you take action to get it back quicker    13 than the normal ordinary process?    14 MR. SWICHAR: He testified he had no    15 recollection.    16 Objection.    17 Q You may answer.    18 A Yes, I have -- I did.    19 Q And why did you take that extra effort?    20 A Mr. Ortenzio's request.    21 Q You were also asked a couple questions about   </p>
<p style="text-align: right;">Page 190</p> <p>1 at the time the 1.2 million dollar payment was made.    2 Did you know that on February 11?    3 A No, I did not.    4 Q Now, after you learned that the check had    5 come in, did you have any contact with Mr. Ortenzio    6 about the consequences of the payment having been    7 made?    8 In other words, why did you send this letter    9 that's been marked as S-13 to Mr. Ortenzio confirming    10 that the 1.2 million dollar line had about --    11 MR. SWICHAR: Objection as to form; the    12 letter says why he sent it.    13 Q That's 13.    14 Why did you send that letter, S-13?    15 MR. SWICHAR: Objection as to form.    16 It states on the letter why he was    17 sending it.    18 A As a follow-up to Mr. Ortenzio's request to    19 get his surety back because, because the loan was paid    20 in full.    21 Q Okay. Now, that was a request made to you   </p>	<p style="text-align: right;">Page 192</p> <p>1 banking custom and practice.    2 Do you recollect that?    3 A Yes.    4 Q Do you know whether banking customs and    5 practice are binding law, enforceable --    6 MR. SWICHAR: Objection to the    7 question.    8 Q -- in courts?    9 A No, I do not.    10 Q Do you know whether banking customs and    11 practices constitute a prohibition upon borrower    12 conduct?    13 A No, I do not.    14 MR. GEBHARDT: No further questions.    15 MR. SWICHAR: Just a couple.    16 EXAMINATION BY COUNSEL FOR THE DEFENDANT    17 BY MR. SWICHAR:    18 Q Mr. Schwartz, you testified that the    19 repayment in full of the 1.2 million dollar loan was    20 not an authorized use of the four million dollar line    21 of credit; is that correct?   </p>

## Craig J. Schwartz

<p style="text-align: right;">Page 193</p> <p>1 A Yes.</p> <p>2 Q Is there any document anywhere in this world 3 that states specifically in regard to repayment in 4 contrast to use of the funds that the funds -- that 5 the four million dollar line could not be used to 6 repay the 1.2?</p> <p>7 A There's no documents that says it cannot be 8 used to repay it.</p> <p>9 Q Is there any -- would there have been any 10 impediment that you're aware of to the bank stating in 11 any document binding on Mr. -- binding on CCI or 12 Mr. Ortenzio to prohibit the four million dollar line 13 of credit to be used to repay the 1.2 million dollar 14 loan, such as we discussed earlier, a negative 15 covenant?</p> <p>16 A Other than the agreed-upon use of proceeds 17 of that four million dollar loan.</p> <p>18 Q Right, right.</p> <p>19 Is there any impediment to the bank 20 expressly stating as a negative covenant that the four 21 million dollar line of credit could not be used to repay</p>	<p style="text-align: right;">Page 195</p> <p>1 reason --</p> <p>2 MR. SWICHAR: I'll ask another 3 question.</p> <p>4 Q (By Mr. Swichar) Are you aware of any 5 impediment that prevented the bank from stating in any 6 document binding on CCI or Mr. Ortenzio that the 7 1.2 million dollar loan could only be repaid from 8 excess cash flow or profits?</p> <p>9 A No.</p> <p>10 Q You testified with respect to the equipment 11 note that that was a term loan; is that correct?</p> <p>12 A Yes.</p> <p>13 Q Is that different than the 1.2 million 14 dollar loan?</p> <p>15 A Yes.</p> <p>16 Q Okay, because payments were to be made 17 monthly?</p> <p>18 A The whole nature of the transaction was 19 different.</p> <p>20 Q The equipment note?</p> <p>21 A Yes.</p>
<p style="text-align: right;">Page 194</p> <p>1 the 1.2 million dollar loan?</p> <p>2 A No.</p> <p>3 Q The answer's no?</p> <p>4 A No.</p> <p>5 Q How was CCI to repay the 1.2 million dollar 6 loan?</p> <p>7 A From excess cash flow.</p> <p>8 Q And I think we -- I asked you earlier, but 9 correct me if I'm wrong, since Mr. Gebhardt asked, 10 touched on that, where is that in any document?</p> <p>11 A I don't believe it's in a document.</p> <p>12 Q Okay. Is there any reason or any impediment 13 to the bank not putting that in any document that this 14 loan could only be repaid from excess cash flow or 15 excess profits?</p> <p>16 MR. GEBHARDT: Let me object to, again, 17 the compound nature. Reason and impediment are two 18 different things.</p> <p>19 MR. SWICHAR: I'm using his word -- I 20 hear you.</p> <p>21 MR. GEBHARDT: You're asking is there a</p>	<p style="text-align: right;">Page 196</p> <p>1 Q Okay. You testified that payments on the 2 equipment note had to be repaid through profits of the 3 company, from collected accounts receivable, if I took 4 notes correctly; is that correct?</p> <p>5 A Yes.</p> <p>6 Q Is that stated anywhere in the equipment 7 note or any related document?</p> <p>8 In other words, limiting the monies that can 9 be used to repay the equipment note.</p> <p>10 A Not that I'm aware of.</p> <p>11 Q You testified when the 1.2 million dollar 12 note was repaid on February 11 you were not aware that 13 the payment had been made from a draw on the four 14 million dollar line of credit; is that correct?</p> <p>15 A Yes.</p> <p>16 Q That information was readily available to 17 you, was it not?</p> <p>18 A Within a day or so.</p> <p>19 Q Within a day or so?</p> <p>20 A Yes.</p> <p>21 Q Wouldn't that information have been on your</p>

## Craig J. Schwartz

<p style="text-align: right;">Page 197</p> <p>1 computer?</p> <p>2 A Not until the payment actually gets posted.</p> <p>3 Q Okay. The next day?</p> <p>4 A Possibly.</p> <p>5 Q Okay. Certainly before the note was</p> <p>6 returned?</p> <p>7 A Yes.</p> <p>8 Q And marked satisfied?</p> <p>9 A Yes.</p> <p>10 Q You had the opportunity to learn the source</p> <p>11 of payment?</p> <p>12 A The note was not returned.</p> <p>13 Q The note, the guarantee, the suretyship.</p> <p>14 A Yes.</p> <p>15 Q Prior to your delivery of the guarantee</p> <p>16 marking it paid, you had the opportunity to determine</p> <p>17 the source of the money, is that correct -- source of</p> <p>18 the payment -- is that correct?</p> <p>19 A Yes.</p> <p>20 Q And you never inquired as to the source of</p> <p>21 the money -- source of the repayment of the</p>	<p style="text-align: right;">Page 199</p> <p>1 A Yes.</p> <p>2 Q Okay. You didn't do either, did you?</p> <p>3 A No.</p> <p>4 Q If you had cared, you would have done it?</p> <p>5 MR. GEBHARDT: Objection.</p> <p>6 A Most likely.</p> <p>7 Q The fact is when the 1.2 million dollar note</p> <p>8 was repaid, you were just happy to see that it was</p> <p>9 repaid, weren't you?</p> <p>10 A I don't think I'd put it in those words.</p> <p>11 Q Were you glad or sad --</p> <p>12 A When I get --</p> <p>13 Q -- or something in between?</p> <p>14 A When I receive payment, I'm always --</p> <p>15 Q Grateful?</p> <p>16 A Yes.</p> <p>17 Q Okay. Now, Mr. Ortenzio told you you said</p> <p>18 in November, 1999, that he required the 1.2 million</p> <p>19 through the end of February, 2000; is that correct?</p> <p>20 That's what you stated when your attorney</p> <p>21 asked you.</p>
<p style="text-align: right;">Page 198</p> <p>1 1.2 million dollar loan; is that correct?</p> <p>2 A Yes.</p> <p>3 Q And, again, where did you think the money</p> <p>4 came from?</p> <p>5 And I think your earlier answer was you</p> <p>6 didn't know, you didn't care; is that correct?</p> <p>7 MR. GEBHARDT: Objection to the</p> <p>8 characterizing of the witness' earlier testimony.</p> <p>9 A I didn't know where the money came from.</p> <p>10 Q Well, you didn't ask, did you?</p> <p>11 A No, I did not.</p> <p>12 Q And, therefore, you didn't care, did you?</p> <p>13 MR. GEBHARDT: Objection.</p> <p>14 Q If you had cared, you would have asked; is</p> <p>15 that right?</p> <p>16 A I didn't have the opportunity to speak to</p> <p>17 Mr. Ortenzio.</p> <p>18 Q You could have called him on the phone?</p> <p>19 A I -- that's correct.</p> <p>20 Q Could have gone over to CCI and knocked on</p> <p>21 the door and asked him?</p>	<p style="text-align: right;">Page 200</p> <p>1 A Okay.</p> <p>2 Q Is that correct?</p> <p>3 A That was --</p> <p>4 Q You said they would need the money, the</p> <p>5 extra money, the 1.2 million, through the end of</p> <p>6 February, 2000.</p> <p>7 A That was according to the cash flow</p> <p>8 statements.</p> <p>9 Q And that's what Mr. Ortenzio told you,</p> <p>10 right?</p> <p>11 A Yes.</p> <p>12 Q Okay. Now, at the time of the repayment of</p> <p>13 the 1.2 million coincidentally in February, 2000, the</p> <p>14 balance on the four million dollar line of credit</p> <p>15 allowed for the repayment of the 1.2 from the four</p> <p>16 million; is that correct?</p> <p>17 MR. GEBHARDT: Objection.</p> <p>18 Q There was sufficient cushion there under the</p> <p>19 four million dollar line of credit to repay the 1.2;</p> <p>20 is that correct?</p> <p>21 We went over the numbers.</p>

50 (Pages 197 to 200)

Gerard L. Elias

Page 1

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

3           ALLFIRST BANK           :

4           Plaintiff           :

5           v.                   : CA NO. 1:CV-0786

6           JOHN M. ORTENZIO   :

7           Defendant           : Pages 1 - 31

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12           Deposition of Gerard L. Elias

13           Baltimore, Maryland

14           Friday, February 15, 2002

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21           Reported by: Kathleen R. Turk, RPR-RMR

**ESQUIRE**  
DEPOSITION SERVICES

## Gerard L. Elias

<p style="text-align: right;">Page 9</p> <p>1 A We were advised that the company was in 2 severe distress. 3 Q By whom? 4 A By Mr. Ortenzio and, I believe, his attorney 5 was, was present as well. 6 Q Did he use the word severe distress, or is 7 that your conclusion? 8 A Oh, I don't recall. I'm paraphrasing. 9 Q Well, could you just tell me specifically if 10 you can, to the best of your recollection, what you 11 were told rather than what you concluded for the 12 moment? 13 A We were told that the company was in severe 14 distress. 15 Q Okay. Why did -- was there any comment as 16 to why the company was in severe distress? 17 A There were a number of jobs where problems 18 had arisen to where the company's -- that is, CCI's -- 19 bonding company needed to be apprised of those 20 problems. 21 We were advised that there was an upcoming</p>	<p style="text-align: right;">Page 11</p> <p>1 the company, and that they would advise the bank of 2 those discussions with the bonding company. 3 Q Did you take notes at that meeting? 4 A I don't believe I took notes myself. 5 Q Do you know of anyone who did? 6 A Mr. Gibson could have. 7 Maybe some of the people at the meeting 8 itself. Since I wasn't there present, I don't know if 9 those individuals took notes. 10 Q Did you see Mr. Gibson take notes? 11 A I don't recall. 12 Q But you did not? 13 A Not that I recall. 14 Q Okay. What happened after that meeting? 15 A I think my next involvement would have been 16 the following week. I believe I was in Harrisburg at 17 the time, and we were discussing the situation, and it 18 was disclosed that the line of credit had grown; in 19 other words, the outstanding balance had grown in the 20 line of credit. And that concerned us because that 21 was contrary to our understanding that we would wait</p>
<p style="text-align: right;">Page 10</p> <p>1 loss to be reported to the tune of six million 2 dollars, I believe. We were advised that there were 3 some problems with some of the subcontractors on the 4 jobs. 5 Q All right. Mr. Elias, do you recall if 6 anything was asked of the bank by Mr. Ortenzio or his 7 attorney? 8 Did they ask for more money, for example, at 9 that meeting? 10 A I don't recall. 11 Q Well, can you tell me how that meeting 12 concluded? On what footing? Where was it left? 13 A Generally, it was left that, that the 14 company had stopped making payments sometime well 15 prior to that meeting. 16 Q To the bank, or to its subs, or to 17 everybody? 18 A Just making payments in general, yeah, to 19 its subs certainly; that the bonding company had been 20 advised, and I believe that the bonding company was 21 going to be meeting once again the following week with</p>	<p style="text-align: right;">Page 12</p> <p>1 to see the results of the company's meeting with the 2 bonding company, and that understanding was from the 3 prior Friday. 4 Q Wait a minute, let me go back. 5 Between the 18th and the 23rd, there was 6 increased borrowings against the four million dollar 7 line of credit? 8 A Yes. 9 Q Do you recall the amounts? 10 A I do not. 11 Q Okay. 12 A We became concerned because it was our 13 understanding that we were effectively all at a 14 standstill, waiting to see what the bonding company 15 would say, and as it turned out that, that checks were 16 continuing to come and hit against the account. 17 We became alarmed at that since we had been 18 previously told that payments had stopped. 19 Q Is it conceivable that those checks, by the 20 way, had been sent out prior to the meeting on the 21 13th?</p>

3 (Pages 9 to 12)

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## Gerard L. Elias

<p style="text-align: right;">Page 17</p> <p>1 A I don't recall.      2 Q Did they ask for more money?      3 A I don't recall.      4 Q Do you recall telling Mr. Ortenzio that the      5 bank wanted its fucking money or you were leaving?      6 A I don't recall.      7 Q Is it possible you would have said that?      8 A Possible.      9 MR. SWICHAR: Excuse me.      10 Q (By Mr. Swichar) Do you recall when the      11 decision was made -- did you -- were you involved in      12 the decision to freeze CCI's bank accounts?      13 A Yes.      14 Q When was that decision made?      15 A I believe it was Wednesday, the 23rd.      16 Q And did you make that decision yourself?      17 A I think there were probably a few people      18 involved in the decision --      19 Q Who else?      20 A -- but I was in the group.      21 Q Who else?</p>	<p style="text-align: right;">Page 19</p> <p>1 inquiry as to why that was occurring and asked for      2 some additional support if we were to be expected to      3 continue to, to fund.      4 Q Okay. So on the 23rd, you did ask for      5 additional support?      6 A Yes.      7 Q And what kind of support did you ask for?      8 A Guarantees, additional collateral, some      9 support payment.      10 Q What additional guarantees did you request?      11 Guarantee the four million dollar line?      12 A Yes.      13 Q And what other decision?      14 A Additional collateral.      15 Q As, for example?      16 A Oh, just whatever additional collateral      17 might be worthwhile.      18 Q So on the 23rd, I assume Mr. Ortenzio said      19 no.      20 A Correct.      21 Q And at that point, you froze the accounts?</p>
<p style="text-align: right;">Page 18</p> <p>1 A Well, I think probably Mr. Zarcone was      2 involved. I can't recall specifically.      3 Q Did the bank begin to freeze CCI accounts on      4 the 23rd?      5 A I think that was the date.      6 Q That was prior to the declaration of      7 default?      8 A No.      9 Q Well, the declaration of default -- letter,      10 at least -- is dated the 24th.      11 A Correct.      12 Q When was the declaration of default, and how      13 was that conveyed to CCI?      14 A I believe it was conveyed that date when we      15 became aware of the fact that the checks were      16 continuing to --      17 Q What date is that?      18 A The 23rd.      19 Q The 23rd?      20 A -- draw down on the line.      21 I believe we contacted Mr. Ortenzio to make</p>	<p style="text-align: right;">Page 20</p> <p>1 A Correct.      2 Q Instantly, on the 23rd?      3 A I believe so.      4 Q And you made the decision to bounce CCI's      5 checks on the 23rd as well?      6 A Correct.      7 Q And that began on the 23rd?      8 A I believe that's the date, yes.      9 Q And that was prior to any written      10 declaration of default?      11 A Correct.      12 Q Was it a situation where the bank also      13 decided to reverse certain payments on checks that had      14 already just cleared?      15 A I don't recall that.      16 Q Did you review any documents prior to your      17 deciding to declare CCI in default?      18 A Sure.      19 Q Which documents did you review?      20 A The loan documents.      21 Q Pardon me?</p>

5 (Pages 17 to 20)

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Gerard L. Elias

Page 25

1 his learning of it.

2 Q Okay. Did he tell you how he discovered  
3 that?

4 A If he did, I don't recall.

5 Q Did any of the loan officers in Harrisburg  
6 have power to declare the default without going to you  
7 or anyone in Baltimore?

8 A Yes.

9 Q And who would that have been in the context  
10 of this loan?

11 A Well, I would say certainly Mr. Zarcone  
12 and -- as well as Paul Shannon, but that, that  
13 wouldn't be an inclusive, an all-inclusive list.

14 I'm sure there were other people, but  
15 certainly those two individuals.

16 Q Did you consult with either of those prior  
17 to you declaring the default?

18 A I believe we had discussions, yes.

19 MR. SWICHAR: Okay, just a minute.

20 (Discussion off the record.)

21 Q (By Mr. Swichar) Let me go back and revisit

Gerard L. Elias

Page 26

1 that meeting on February 18th, Mr. Elias.

2 Is it your recollection that you were not  
3 told at that meeting that the 1.2 million dollar note  
4 had been paid off?

5 A My recollection is that I didn't learn of  
6 the 1.2 million dollars, that loan's existence, until  
7 well after that time frame. So it would be my  
8 recollection that I was not told --

9 Q Okay.

10 A -- of its having been paid off at that  
11 meeting.

12 MR. SWICHAR: I have no other  
13 questions.

14 MR. GEBHARDT: Just one small topic.

15 EXAMINATION BY COUNSEL FOR THE PLAINTIFF  
16 BY MR. GEBHARDT:

17 Q You indicated that at the February 18, 2000,  
18 meeting that Mr. Ortenzio was accompanied by an  
19 attorney.

20 A Correct.

21 Q Do you know the name of that attorney?

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

ALLFIRST BANK \*

Plaintiff, \*

v. \* CASE NO.: 1:01-CV-786

JOHN M. ORTENZIO \*

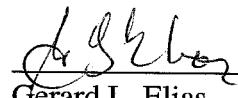
Defendant. \*

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**AFFIDAVIT OF GERARD L. ELIAS**

Gerard L. Elias deposes and states as follows:

1. I am a Senior Vice President of Allfirst Bank ("Allfirst") and the head of its Special Credits Division.
2. As a Senior Vice President and head of the Special Credits Division of Allfirst Bank, I have personal knowledge of the matters and facts set forth in this affidavit.
3. Exhibit N reflects the amounts which are owed by Allfirst under the \$1.2 million dollar loan extended by Allfirst to CCI Construction Co., Inc. as of May 31, 2002, together with a per day amount of interest thereafter. Exhibit O reflects the amounts due under the \$4 million dollar line of credit extended by Allfirst Bank to CCI Construction Co., Inc. as of May 31, 2002, together with per day interest thereafter. The amounts set forth on Exhibit O do not reflect any recovery in the pending preference action instituted by CCI Construction Co., Inc. in the United States Bankruptcy Court for the Middle District of Pennsylvania.

  
\_\_\_\_\_  
Gerard L. Elias

**OATH**

The undersigned swears under the penalties of perjury that the matters and facts set forth above are true and correct.



Gerard L. Elias